

No. 10490

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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IDAHO POTATO GROWERS, INC., W. P. WILSON, L. S. TAUBE, TED TAUBE and L. B. HOLDEN, Co-partners, doing business as L. S. TAUBE & COMPANY, MEYER FRIEDMAN and ARTHUR E. FRIEDMAN, Co-partners, doing business as S. FRIEDMAN & SONS, IDAHO FALLS WAREHOUSE COMPANY, ROWENA O'NEILL, Administratrix of the Estate of J. E. O'Neill, deceased, A. G. STUART, C. R. HOLDEN and L. L. HOLDEN, Co-partners, doing business as HOLDEN BROTHERS and IDAHO TRAFFIC ASSOCIATION,

Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.


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Transcript of Record  
In Two Volumes  
VOLUME I  
Pages 1 to 396

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Upon Petition for Review and Petition for Enforcement of  
Order of the National Labor Relations Board

DEC 31 1943



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IDAHO POTATO GROWERS, INC., W. P. WILSON, L. S. TAUBE, TED TAUBE and L. B. HOLDEN, Co-partners, doing business as L. S. TAUBE & COMPANY, MEYER FRIEDMAN and ARTHUR E. FRIEDMAN, Co-partners, doing business as S. FRIEDMAN & SONS, IDAHO FALLS WAREHOUSE COMPANY, ROWENA O'NEILL, Administratrix of the Estate of J. E. O'Neill, deceased, A. G. STUART, C. R. HOLDEN and L. L. HOLDEN, Co-partners, doing business as HOLDEN BROTHERS and IDAHO TRAFFIC ASSOCIATION,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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BOARD'S EXHIBIT No. 1-A

United States of America  
National Labor Relations Board

I, Beatrice M. Stern, Executive Secretary of the National Labor Relations Board, and official custodian of its records, do hereby certify that attached is a full, true, and complete copy of: Order Consolidating Cases

In the Matter of:

Idaho Falls Potato Growers Association and Teamsters, Chauffeurs, Warehousemen and Helpers Local 983, A. F. L. Case No. XIX-C-1116

W. P. Wilson and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1117

L. S. Taube & Company and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1118

Atlantic Commission Company and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1122

S. Freedman & Sons Produce Company and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1125

Idaho Falls Bonded Warehouse and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1127

J. E. O'Neil Warehouse and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1129

A. G. Stewart and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1131

Holden Brothers, Incorporated and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L. Case No. XIX-C-1137

In Witness Whereof, I have hereunto subscribed my name and caused the seal of the National Labor Relations Board to be affixed this 1st day of August A. D. 1942, at Washington, D. C.

[Seal]

BEATRICE M. STERN

Executive Secretary.

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United States of America  
Before The National Labor Relations Board

In the Matter of

Case No. XIX-C-1116

IDAHO FALLS POTATO GROWERS ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1117

W. P. WILSON

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1118

**L. S. TAUBE & COMPANY**

and

**TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.**

Case No. XIX-C-1122

**ATLANTIC COMMISSION COMPANY**

and

**TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.**

Case No. XIX-C-1125

**S. FREEDMAN & SONS PRODUCE COMPANY**

and

**TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.**

Case No. XIX-C-1127

**IDAHO FALLS BONDED WAREHOUSE**

and

**TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.**

Case No. XIX-C-1129

J. E. O'NEIL WAREHOUSE

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1131

A. G. STEWART

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1137

HOLDEN BROTHERS, INCORPORATED

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

## ORDER CONSOLIDATING CASES

Charges, pursuant to Section 10(b) of the Act, having been filed in the above-entitled cases, and the Board having duly considered the matter, and deeming it necessary in order to effectuate the purposes of the National Labor Relations Act,

It Is Hereby Ordered, pursuant to Article II, Section 36 (b) of National Labor Relations Board Rules and Regulations—Series 2, as amended, that these cases be, and they hereby are, consolidated.

Dated, Washington, D. C., July 31, 1942.

By direction of the Board:

[Seal]                      BEATRICE M. STERN  
Executive Secretary

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BOARD'S EXHIBIT No. 1-B

United States of America  
Before The National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1116

Dated Filed April 6, 1942

Amended August 26, 1942

In the Matter of—

IDAHO FALLS POTATO GROWERS ASSOCI-  
ATION AND IDAHO TRAFFIC ASSOCIA-  
TION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that Idaho Falls Potato Growers Association and Idaho Traffic Association at Idaho Falls, Idaho employing 60 workers in sorting, packing, warehousing, shipping and selling potatoes have engaged in and are engaging in unfair labor practices within

the meaning of Section 8 subsections (1) and (3) and (5) of said Act, in that said Idaho Falls Potato Growers Association, on or about February 24, 1942, demoted Milo Rash and forced him to quit his position with the Association, or discharged the said Milo Rash from its employ and at all times since said date has failed and refused to reinstate the said Milo Rash to his former position or to reemploy the said Milo Rash at a position to which he was entitled because of his membership in and activities on behalf of the undersigned labor organization, and has thereby violated and is thereby violating Section 8, subsection (3) of said Act.

The Idaho Traffic Association has acted in the interest of and on behalf of the Idaho Falls Potato Growers Association with respect to labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the National Labor Relations Act.

Since on and before February 13, 1942 the undersigned union has been designated as their bargaining agency by a majority of the employees of Idaho Falls Potato Growers Association at its Idaho Falls and Shelley, Idaho plants, in a unit appropriate for purposes of collective bargaining, namely, all employees of said employer in its cellar and warehouse crews at said towns, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, said Association has directly and by and through the Idaho Traffic Association, acting in the interest of and on behalf of said Idaho Falls

Potato Growers Association, at all times since on or about February 13, 1942 failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal the Idaho Falls Potato Growers Association and the Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

The Idaho Falls Potato Growers Association, through its manager, Ferrill Hansen; and Idaho Traffic Association, acting in the interest of and on behalf of Idaho Falls Potato Growers Association, have made public statements attacking the undersigned union and the integrity of its representatives, and discouraging membership in the said union. The said Associations have, through the said Ferrill Hansen and other agents, participated in and encouraged an organized movement in Eastern Idaho by representatives of the Idaho State Grange and subdivisions thereof, and other purported representatives of farmers, the Idaho Falls Traffic Association and other potato packing and shipping concerns, to attack and vilify the undersigned organization, its affiliates and representatives, prevent employers from signing agreements with said union, and generally discourage membership in said union, and interfere with and restrain its activities. By such activities and other



acts and statements the Associations have interfered with, restrained and coerced and are interfering with, restraining and coercing their employees and the employees of other employers in the vicinity of Idaho Falls in the exercise of the rights guaranteed to them in Section 7 of the Act and have violated and are violating Section 8, subsection (1) of the Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer  
140 South First Avenue,  
Pocatello, Idaho

Subscribed and sworn to before me this 24th day  
of August, 1942 At Idaho Falls, Ida.

LOUIS S. PENFIELD  
Attorney  
NLRB, Region 19



BOARD'S EXHIBIT No. 1-C

United States of America  
Before The National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1117

Date Filed April 6, 1942  
Amended August 26, 1942.

In the Matter of—

W. P. WILSON AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that W. P. Wilson at Firth, Idaho, and Idaho Traffic Association at Idaho Falls, Idaho employing 40 workers in sorting, packing, warehousing, shipping and selling potatoes, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that since on or before February 10 the undersigned union has been designated as the collective bargaining agent by a majority of the employees of said firm at its plant at Firth, Idaho in a unit appropriate for the purpose of collective bargaining, namely, all employees of this firm in

its warehouse and cellar crews, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, said firm and Idaho Traffic Association, acting in the interest of and on behalf of said firm, have at all times since on or about February 10, 1942 failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal W. P. Wilson and said Association have violated and are violating Section 8, subsection (5) of said Act.

W. P. Wilson and Idaho Traffic Association have, beginning with the month of January 1942, by and through Carl DeLong, E. A. Weston, Ferrill Hansen, and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage membership in said union and interfere with and restrain its activities.

The Idaho Traffic Association has acted and is acting in the interest of and on behalf of W. P. Wilson in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements, the said employers

interfered with, restrained and coerced and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the said Act and have violated and are violating Section 8, subsection (1) of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer  
140 South First Avenue,  
Pocatello, Idaho

Subscribed and sworn to before me this 24th day of August, 1942. At Idaho Falls, Ida.

LOUIS S. PENFIELD

Attorney  
NLRB, Region 19

## BOARD'S EXHIBIT No. 1-D

United States of America  
Before The National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1118

Dated Filed April 6, 1942  
Amended: August 26, 1942.

In the Matter of—

L. S. TAUBE, TED TAUBE, AND L. B. HOL-  
DEN, CO-PARTNERS, D.B.A., L. S. TAUBE  
& COMPANY: AND IDAHO TRAFFIC  
ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

## AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that L. S. Taube, Ted Taube, and L. B. Holden, Co-partners, D.B.A., L. S. Taube & Company at Idaho Falls and Shelley, Idaho: Idaho Traffic Association at Idaho Falls, Idaho employing 60 workers in sorting, packing, shipping, warehousing and selling potatoes, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (3) and (5) of said Act, in that said L. S. Taube & Company, on or

about February 5, 1942, discharged from its employ the employees hereinafter named, and at all times since said date has failed or refused to reinstate or re-employ any of said employees because of their membership in and activities on behalf of the undersigned labor organization, and has thereby violated and is thereby violating Section 8, subsection (3) of said Act: Mervin Crandall, Jack Hendrickson, Willard Moore, Harold Goodell, Clency Wadsworth, C. A. Falk.

Said L. S. Taube & Company, by and through Carl Metcalf, a supervisory employee, did, during the months of January and February 1942, make statements to its employees criticizing and condemning the undersigned union and its representatives, and discouraging membership in the union.

Since on and before February 13, 1942 the undersigned union has been designated as their collective bargaining representative by a majority of the employees of said L. S. Taube & Company in its Idaho Falls and Shelley operations in a unit appropriate for the purposes of collective bargaining, namely, all employees of L. S. Taube & Company in its sheds and cellar crews at said operations, excluding office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, said L. S. Taube & Company and Idaho Traffic Association, acting in the interest of and on behalf of said L. S. Taube & Company, have at all times since said date failed and refused to recognize or bargain collectively with the undersigned union as the collective bargaining

representative of said employees with respect to rates of pay, wages, hours and other conditions of employment. By said refusal the L. S. Taube & Company and the Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

Said L. S. Taube & Company and Idaho Traffic Association have, beginning with the month of January 1942, through Carl DeLong, E. A. Weston, Ferrill Hansen, L. B. Holden and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers, and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage membership in said union and interfere with and restrain its activities. The Idaho Traffic Association has acted and is acting in the interest of and on behalf of L. S. Taube & Company in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements, the said L. S. Taube & Company and the Idaho Traffic Association interfered with, restrained and coerced and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the said Act, and have violated and are violating Section 8, subsection (1) of said Act.

The undersigned further charges that said unfair



labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer

140 South First Avenue,  
Pocatello, Idaho

Subscribed and sworn to before me this 24th day  
of August, 1942 At Idaho Falls, Ida.

LOUIS S. PENFIELD

Attorney

NLRB, Region 19

## BOARD'S EXHIBIT No. 1-E

United States of America  
Before The National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1125

Dated Filed April 10, 1942

Amended August 26, 1942

In the Matter of—

MEYER FRIEDMAN AND ARTHUR E.  
FRIEDMAN, C O - P A R T N E R S, DBA S.  
FRIEDMAN & SONS AND IDAHO TRAF-  
FIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

## AMENDED CHARGE

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that Meyer Friedman and Arthur E. Friedman, Co-partners, DBA S. Friedman & Sons at Idaho Falls, Idaho, and Idaho Traffic Association at Idaho Falls, Idaho employing 25 workers in sorting, packing, shipping, warehousing and selling potatoes, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that since on and before February 13, 1942 the undersigned union



has been designated as their collective bargaining agent by a majority of the employees of S. Friedman & Sons at its Idaho Falls plant, in a unit appropriate for the purposes of collective bargaining, namely, all employees of the company in its warehouse and cellar crews, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, said company and Idaho Traffic Association acting in the interest of and on behalf of said company have at all times since on or about February 13, 1942 failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal the company and Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

S. Friedman & Sons and Idaho Traffic Association have, beginning with the month of January 1942, by and through Carl DeLong, E. A. Weston, Ferrill Hansen and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage membership in said union, and interfere with and restrain its activities.

The Idaho Traffic Association has acted and is

acting in the interest of and on behalf of S. Friedman & Sons in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements, the said employers interfered with, restrained and coerced, and are interfering with, restraining and coercing their employees in the exercise of the right guaranteed to them in Section 7 of the said Act and have violated and are violating Section 8, subsection (1) of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer  
140 South First Avenue,  
Pocatello, Idaho

Subscribed and sworn to before me this 24th day  
of August, 1942 At Idaho Falls, Idaho.

LOUIS S. PENFIELD

Attorney

NLRB, Reg. 19

---

BOARD'S EXHIBIT No. 1-F

United States of America

Before The National Labor Relations Board

Nineteenth Region

Case No. XIX-C-1127

Date Filed April 10, 1942

Amended August 26, 1942

In the Matter of—

IDAHO FALLS WAREHOUSE COMPANY  
AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that Idaho Falls Warehouse Company and Idaho Traffic Association at Idaho Falls, Idaho employing 25 workers in sorting, packing, shipping, warehousing and selling potatoes have engaged in and are

engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that since on and before February 16, 1942 the undersigned union has been designated as their collective bargaining agent by a majority of the employees of the Idaho Falls Warehouse Company at its Idaho Falls plant in a unit appropriate for the purposes of collective bargaining, namely, all employees of the company in its warehouse and cellar crews, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, said company and Idaho Traffic Association, acting in the interest of and on behalf of said company, have at all times since on or about February 16, 1942 failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal the company and Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

Said company and Association have, beginning with the month of January, 1942, by and through A. G. Stanger, Carl DeLong, E. A. Weston, Ferrill Hansen and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage

membership in said union and interfere with and restrain its activities.

The Idaho Traffic Association has acted and is acting in the interest of and on behalf of Idaho Falls Warehouse Company in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements, the said employers interfered with, restrained and coerced and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the said Act, and have violated and are violating Section 8, subsection (1) of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation or organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer

140 South First Avenue,  
Pocatello, Idaho

Subscribed and sworn to before me this 24th day of August, 1942. At Idaho Falls, Idaho.

LOUIS S. PENFIELD

Attorney NLRB

Region 19

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BOARD'S EXHIBIT No. 1-G

United States of America

Before The National Labor Relations Board

Nineteenth Region

Case No. XIX-C-1131

Dated Filed April 10, 1942

Amended August 26, 1942

In the Matter of—

A. G. STEWART AND

IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that A. G. Stewart at Shelley, Idaho, and Idaho Traffic Association at Idaho Falls, Idaho employing 15 workers in sorting, packing, shipping, warehousing and selling potatoes have engaged in and are engag-



ing in unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that since on and before February 16, 1942 the undersigned union has been designated as their collective bargaining agent by a majority of the employees of A. G. Stewart at its Shelley, Idaho plant in a unit appropriate for the purposes of collective bargaining, namely, all employees of A. G. Stewart in his warehouse and cellar crews, exclusive of office employees and supervisory employees of higher rang than cellar crew foremen. Although requested to do so A. G. Stewart and Idaho Traffic Association acting in the interest of and on behalf of said A. G. Stewart, have at all times since on or about February 16, 1942 failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal A. G. Stewart and Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

Said A. G. Stewart and Idaho Traffic Association have, beginning with the month of January, 1942, through Carl DeLong, E. A. Weston, Ferrill Hansen, and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers, and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage

membership in said union and interfere with and restrain its activities.

The Idaho Traffic Association has acted and is acting in the interest of and on behalf of A. G. Stewart in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the cast and statements above described and by other acts and statements, the said employers interfered with, restrained and coerced and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the said Act and have violated and are violating Section 8, subsection (1) of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983, A.  
F. L.

By LEE W. OWEN

Secretary-Treasurer  
140 South First Avenue,  
Pocatello, Idaho



Subscribed and sworn to before me this 24th day  
of August, 1942 At Idaho Falls, Ida.

LAURA S. PENFIELD

Attorney

NLRB, Region 19

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BOARD'S EXHIBIT No. 1-H

United States of America, Before the National  
Labor Relations Board, Nineteenth Region

Case No. XIX-C-1129

Date Filed April 10, 1942

Amended September 18, 1942

In the Matter of—

ROWENAH O'NEIL, Administratrix of the Estate  
of J. E. O'NEIL, deceased; and IDAHO  
TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

AMENDED CHARGE

Pursuant to Section 10 (b) of the National La-  
bor Relations Act, the undersigned hereby charges  
that Rowenah O'Neil, Administratrix of the Estate  
of J. E. O'Neil, Deceased; and Idaho Traffic Asso-  
ciation at Idaho Falls, Idaho, employing 30 work-  
ers in sorting, packing, shipping, warehousing and  
selling potatoes, has engaged in and is engaging

in 'unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that beginning with about February 13, 1942 the undersigned union had been designated as their collective bargaining agent by a majority of the employees of J. E. O'Neil at his Idaho Falls plant in a unit appropriate for the purposes of collective bargaining, namely, all the employees of the employer in his warehouse and cellar crews, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen. Although requested to do so, J. E. O'Neil and Idaho Traffic Association, acting in the interest of and on behalf of said J. E. O'Neil, beginning with about February 13, 1942, failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain with said union collectively with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal the said J. E. O'Neil and Idaho Traffic Association have violated Section 8, subsection (5) of said Act.

J. E. O'Neil and Idaho Traffic Association, beginning with the month of January, 1942, directly and through Carl DeLong, E. A. Weston, Ferrill Hansen and other agents, participated in and encouraged an organized movement in southeastern Idaho among potato shippers, farmers and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage

membership in said union and interfere with and restrain its activities.

The Idaho Traffic Association has acted in the interest of and on behalf of J. E. O'Neil in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements, the said employers have interfered with, restrained and coerced their employees in the exercise of the rights guaranteed to them in Section 7 of the said Act, and have violated Section 8, sub-section (1) of said act. J. E. O'Neil died on or about August 9, 1942, and Rowenah O'Neil is the duly appointed and acting Administratrix of his estate.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983,  
A.F.L.

LEE W. OWEN,

Secretary-Treasurer, 140  
South First Avenue, Pocatello, Idaho.

Subscribed and sworn to before me this 3d day  
of September, 1942, at Pocatello, Idaho.

[Seal]

LESLIE M. WHITE,

Notary Public, Residing at  
Pocatello, Idaho.

My Commission expires July 5, 1946.

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BOARD'S EXHIBIT No. 1-I

United States of America  
Before the National Labor Relations Board

Case No. XIX-C-1116

In the Matter of

IDAHO FALLS POTATO GROWERS ASSOCI-  
ATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1117

W. P. WILSON

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1118

L. S. TAUBE & COMPANY

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1122

ATLANTIC COMMISSION COMPANY

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1125

S. FREEDMAN & SONS PRODUCE COMPANY

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1127

IDAHO FALLS BONDED WAREHOUSE

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1129

J. E. O'NEIL WAREHOUSE

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1131

A. G. STEWART

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1137

HOLDEN BROTHERS, INCORPORATED

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

## ORDER SEVERING CASE

Charges, pursuant to Section 10(b) of the Act, having been filed in the above-entitled cases, the Board, by Order duly made, having consolidated these cases, and the Board deeming it necessary in order to effectuate the purposes of the National Labor Relations Act,

It Is Hereby Ordered, pursuant to Article II, Section 36 (d) of National Labor Relations Board Rules

and Regulations—Series 2, as amended, that Case No. XIX-C-1122 be, and it hereby is, severed.

Dated, Washington, D. C., September 15, 1942.

By direction of the Board:

[Seal] BEATRICE M. STERN,  
Executive Secretary.

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BOARD'S EXHIBIT No. 1-J

United States of America  
Before the National Labor Relations Board

In the Matter of

Case No. XIX-C-1116

IDAHO FALLS POTATO GROWERS ASSOCI-  
ATION AND IDAHO TRAFFIC ASSOCIA-  
TION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1117

W. P. WILSON AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.



Case No. XIX-C-1118

L. S. TAUBE, TED TAUBE, AND L. B. HOLDEN, CO-PARTNERS, D.B.A., L. S. TAUBE & COMPANY: AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1125

MEYER FRIEDMAN AND ARTHUR E. FRIEDMAN, CO-PARTNERS, DBA S. FRIEDMAN & SONS AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1127

IDAHO FALLS WAREHOUSE COMPANY AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1129

ROWENAH O'NEIL, ADMINISTRATRIX OF  
THE ESTATE OF J. E. O'NEIL, DE-  
CEASED; AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1131

A. G. STEWART AND IDAHO TRAFFIC AS-  
SOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1137

HOLDEN BROTHERS, INCORPORATED, AND  
IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

CORRECTED ORDER CONSOLIDATING  
CASES

Charges and amended charges, pursuant to Sec-  
tion 10(b) of the Act, having been filed in the above-  
entitled cases, the Board, by Order duly made, hav-

ing consolidated these cases, and it appearing that the caption of the said Order incorrectly designated the parties,

It Is Hereby Ordered, pursuant to Article II, Section 36 (b) of National Labor Relations Board Rules and Regulations—Series 2, as amended, that these cases be, and they hereby are, consolidated.

Dated, Washington, D. C., September 30, 1942.

By direction of the Board:

BEATRICE M. STERN,  
Executive Secretary.

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BOARD'S EXHIBIT No. 1-J-1

United States of America  
Before the National Labor Relations Board

In the Matter of  
Case No. XIX-C-1116

IDAHO FALLS POTATO GROWERS ASSOCI-  
ATION AND IDAHO TRAFFIC ASSOCI-  
ATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1117

W. P. WILSON AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1118

L. S. TAUBE, TED TAUBE, AND L. B. HOLDEN, CO-PARTNERS, D.B.A., L. S. TAUBE & COMPANY: AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1125

MEYER FRIEDMAN AND ARTHUR E. FRIEDMAN, CO-PARTNERS, DBA S. FRIEDMAN & SONS AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1127

IDAHO FALLS WAREHOUSE COMPANY  
AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1129

ROWENAH O'NEIL, ADMINISTRATRIX OF  
THE ESTATE OF J. E. O'NEIL, DE-  
CEASED; AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1131

A. G. STEWART AND IDAHO TRAFFIC AS-  
SOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1137

C. R. HOLDEN and L. L. HOLDEN, COPART-  
NERS, d/b/a HOLDEN BROTHERS AND  
IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

SECOND CORRECTED ORDER CONSOLI-  
DATING CASES

Charges and amended charges, pursuant to Section 10(b) of the Act, having been filed in the above-entitled cases, the Board, by Order duly made, having consolidated these cases, and it appearing that the caption of the said Order incorrectly designated the parties,

It Is Hereby Ordered, pursuant to Article II, Section 36(b) of National Labor Relations Board Rules and Regulations—Series 2, as amended, that these cases be, and they hereby are, consolidated.

Dated, Washington, D. C., October 14, 1942.

By direction of the Board:

BEATRICE M. STERN,  
Executive Secretary.

## BOARD'S EXHIBIT No. 1-K

United States of America  
Before the National Labor Relations Board,  
Nineteenth Region

Case No. XIX-C-1137

Date Filed April 27, 1942

Amended 8/26, 1942

Amended Oct. 9, 1942

In the Matter of—

C. R. HOLDEN AND L. L. HOLDEN, co-part-  
ners, d/b/a HOLDEN BROTHERS, AND  
IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

SECOND AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that C. R. Holden and L. L. Holden, co-partners, d/b/a Holden Brothers, & Idaho Traffic Association at Idaho Falls, Idaho, employing 40 workers in sorting, packing, warehousing, shipping and selling potatoes have engaged in and are engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (5) of said Act, in that since on and before February 13, 1942, a majority of all warehouse and cellar crew employees, exclu-



sive of office employees and supervisory employees of higher rank than cellar crew foremen, of Holden Brothers Inc., hereinafter called the corporation, and C. R. Holden and L. L. Holden a co-partnership doing business as Holden Brothers, successor to the corporation and hereinafter called the partnership has designated the undersigned union as their exclusive agent for the purposes of collective bargaining. Although requested to do so, the corporation on Feb. 13, 1942, and at all times thereafter during its existence, and the partnership, its successor, at all times since its formation, and Idaho Traffic Association acting in behalf of said corporation and partnership at all times since Feb. 12, 1942, have failed and refused to recognize the undersigned union as the exclusive bargaining representative of said employees and to bargain collectively with said union with respect to rates of pay, wages, hours and other conditions of employment for said employees. By said failure and refusal the corporation has violated and the partnership and Idaho Traffic Association have violated and are violating Section 8, subsection (5) of said Act.

The corporation and Idaho Traffic Association have beginning with the month of January, 1942, by and through C. R. Holden, Carl DeLong, E. A. Weston, Ferrill Hansen, and other agents, participated in and encouraged an organized movement among potato shippers, farmers and Granges to attack and villify the undersigned union, its affiliates and representatives, prevent employers from signing agreements with said union and discourage

membership in said union and interfere with and restrain its activities.

The Idaho Traffic Association has acted in the interest of and in behalf of the corporation and has acted and is acting in the interest of and on behalf of the partnership in labor relations and other matters, and is an employer within the meaning of Section 2, subsection (2) of the Act.

By the acts and statements above described and by other acts and statements the said employers interfered with, restrained and coerced and are interfering with, restraining and coercing its employees in the exercise of the rights guaranteed to them in Section 7 of the Act and have violated and are violating Section 8 subsection (1) of the said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND  
HELPERS, LOCAL 983,  
A.F.L.

By LEE W. OWEN,

Secretary-Treasurer, 140  
South First Avenue, Pocatello, Idaho.

Subscribed and sworn to before me this 7th day  
of October, 1942, at Pocatello, Idaho.

[Seal]           MARIE V. HOLMES,  
Notary Public residing at Po-  
catello, Idaho.

My commission expires March 12, 1943.

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BOARD'S EXHIBIT No. 1-L

United States of America  
Before the National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1116

In the Matter of

IDAHO FALLS POTATO GROWERS ASSO-  
CIATION AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1117

W. P. WILSON AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1118

L. S. TAUBE, TED TAUBE, AND L. B. HOLDEN, CO-PARTNERS, DBA, L. S. TAUBE & COMPANY: AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1125

MEYER FRIEDMAN AND ARTHUR E. FRIEDMAN, CO-PARTNERS, DBA, S. FRIEDMAN & SONS AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1127

IDAHO FALLS WAREHOUSE COMPANY AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1129

ROWENAH O'NEIL, ADMINISTRATRIX OF  
THE ESTATE OF J. E. O'NEIL, DE-  
CEASED; AND IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1131

A. G. STEWART AND IDAHO TRAFFIC AS-  
SOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

Case No. XIX-C-1137

C. R. HOLDEN and L. L. HOLDEN, Co-Partners,  
DBA HOLDEN BROTHERS, and IDAHO  
TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F. L.

### CONSOLIDATED COMPLAINT

It having been charged by Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, AFL, that Idaho Falls Potato Growers Association and Idaho Traffic Association; W. P. Wilson and Idaho

Traffic Association; L. S. Taube, Ted Taube, and Lloyd B. Holden, co-partners, doing business as L. S. Taube and Co., and Idaho Traffic Association; Meyer Friedman and Arthur Friedman, co-partners, doing business as S. Friedman & Sons, and Idaho Traffic Association; Idaho Falls Warehouse Company and Idaho Traffic Association; Rowenah O'Neil, Administratrix for the estate of J. E. O'Neil, deceased, and Idaho Traffic Association; A. G. Stewart and Idaho Traffic Association; and C. R. Holden and L. L. Holden, co-partners, doing business as Holden Brothers, and Idaho Traffic Association; hereinafter collectively referred to as the Respondents, have engaged in and are now engaged in unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, hereinafter referred to as the Act, and an order having been made and entered by the National Labor Relations Board, hereinafter called the Board, consolidating said matters, the Board by its Regional Director for the Nineteenth Region as agent for the Board, designated by the Board's Rules and Regulations, Series 2, as amended, Article IV, Section 1, hereby issues its Consolidated Complaint and alleges the following:

### I.

Idaho Falls Potato Growers Association, hereinafter referred to as "Respondent Potato Growers," is, and at all times since before January 1, 1942 has been, a co-operative association duly organized under and existing by virtue of the laws of the



State of Idaho. Respondent Potato Growers has its principal office at Idaho Falls, Idaho, and owns and operates warehouses or plants at Idaho Falls and Shelley, Idaho.

## II.

W. P. Wilson, hereinafter referred to as "Respondent Wilson," is, and at all times since before January 1, 1942 has been, a private individual doing business under his own name. Respondent Wilson has his office, and owns and operates a warehouse or plant at Firth, Idaho.

## III.

L. S. Taube, Ted Taube and L. B. Holden, hereinafter jointly referred to as "Respondent Taube," are, and at all times since before January 1, 1942, have been co-partners doing business under the trade name and style of L. S. Taube & Company. Respondent Taube has its principal office at Idaho Falls, Idaho, and owns and operates warehouses or plants at Idaho Falls and Shelley, Idaho.

## IV.

Meyer Friedman and Arthur E. Friedman, hereinafter jointly referred to as "Respondent Friedman," are, and at all times since before January 1, 1942, have been co-partners doing business under the trade name and style of S. Friedman & Sons. Respondent Friedman has its principal office at Chicago, Illinois, and has an office and owns and operates a warehouse or plant at Idaho Falls, Idaho.



## V.

Idaho Falls Warehouse Company, hereinafter referred to as "Respondent Warehouse Company," is, and since before January 1, 1942 has been, a corporation duly organized under and existing by virtue of the laws of the State of Idaho. Respondent Warehouse Company has its office, and owns and operates a warehouse or plant at Idaho Falls, Idaho.

## VI.

At all times since before January 1, 1942 until on or about August 9, 1942, J. E. O'Neil was an individual doing business under his own name, who maintained an office and owned and operated a warehouse or plant at Idaho Falls, Idaho. On or about August 9, 1942 J. E. O'Neil died and thereafter Rowenah O'Neil was duly appointed and is now acting as administratrix of the estate of said J. E. O'Neil. J. E. O'Neil and Rowenah O'Neil, Administratrix of the estate of J. E. O'Neil, deceased, are hereinafter collectively referred to as the "Respondent O'Neil."

## VII.

A. G. Stewart, hereinafter referred to as "Respondent Stewart," is, and at all times since before January 1, 1942 has been a private individual doing business under his own name. Respondent Stewart owns and operates a warehouse or plant at Shelley, Idaho.

## VIII.

At all times since before January 1, 1942 until on or about June 30, 1942, Holden Brothers, Inc. hereinafter referred to as "Holden Corporation," was a corporation duly organized and existing by virtue of the laws of the State of Idaho, with its principal place of business at Idaho Falls, Idaho, where it owned and operated a plant or warehouse. At all times herein mentioned said Holden Corporation was owned, operated and managed by three individuals, including C. R. Holden and L. L. Holden. On or about June 30, 1942 Holden Corporation was dissolved. On or about June 30, 1942 the aforesaid C. R. Holden and L. L. Holden formed a partnership, and at all times since that date said C. R. Holden and L. L. Holden, as co-partners, have done and are now doing business under the firm name and style of Holden Brothers, and have owned and operated, and now own and operate the above mentioned plant or warehouse at Idaho Falls, Idaho as the successor to Holden Corporation. Holden Corporation, and C. R. Holden and L. L. Holden, co-partners, doing business as Holden Brothers, are hereinafter collectively referred to as "Respondent Holden."

## IX.

Each of the respondents named in Paragraphs I to VIII inclusive, above, is and since before January 1, 1942 has been, engaged at the respective warehouses or plants mentioned in said paragraphs in the business of buying, sorting, packing, shipping and selling potatoes. Each of said Respon-

dents, in the course and conduct of said business operations, causes, and since before January 1, 1942 has continuously caused, a substantial amount of materials, principally burlap sacks, to be purchased, delivered and transported in interstate commerce from and through States of the United States other than the State of Idaho, to its plant or plants within the State of Idaho, and causes and has continuously caused a substantial amount of the potatoes handled by it to be sold and transported by it in interstate commerce to and through States of the United States other than the State of Idaho from its plant or plants in the State of Idaho.

## X.

The Idaho Traffic Association, Inc., hereinafter referred to as "Respondent Traffic Association," is, and at all times since before January 1, 1942 has been, a corporation duly organized under and existing by virtue of the laws of the State of Idaho, having its office and place of business at Idaho Falls, Idaho. Respondent Traffic Association is, and at all times since its incorporation has been, an association of individuals, firms and corporations engaged in the buying, selling and shipping of potatoes and other produce. Each of the respondents named in paragraphs I to VIII inclusive, above, is, and since before January 1, 1942 has been, a member of the Respondent Traffic Association, or has participated in the affairs of or contributed financial support to Respondent Traffic Association. Respondent Traffic Association is, and at all times since its incorporation has been, engaged in

providing information, advice, and assistance to the above named respondents in connection with their marketing, traffic and labor relations problems, practices and policies, and acts and has acted in the interest of and on behalf of the above named respondents in dealings with labor organizations representing or purporting to represent the employees of said respondents with respect to matters of collective bargaining. Respondent Traffic Association is an employer within the meaning of Section 2, subsection (2) of the Act.

## XI.

Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, AFL, hereinafter referred to as the "Union," is a labor organization within the meaning of Section 2, subsection (5) of the Act. The Union, a local unit of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the American Federation of Labor, hereinafter referred to as the "Teamsters Union," was chartered on or about January 16, 1942 by said Teamsters Union, and is the successor to Chauffeurs, Teamsters and Helpers, Locals 440 and 852 of the Teamsters Union, both of which were labor organizations within the meaning of Section 2, subsection (5) of the Act.

## XII.

Respondents, and each of them, beginning with about January 23, 1942, instigated, or participated in and encouraged, an organized movement or concerted course of action carried on by Respondents'

representatives, by various units of the Idaho State Grange, and by other persons. Said movement or course of action was calculated to or had the effect of disrupting and defeating the attempts of employees of respondents named in paragraphs I to VIII inclusive, above, and of other employers at and in the vicinity of Idaho Falls, Shelley and Firth, Idaho, to join and assist the Union and to bargain collectively through the Union. As a part of said course of action Respondents have, among other things, taken the following action:

(1) Respondents, by and through Respondent Traffic Association and Carl DeLong, its executive secretary, and by and through various representatives of Respondents and members of the Respondent Traffic Association, whose names are well known to Respondents, did on or about January 24, 1942, cause a meeting to be held at Idaho Falls, Idaho of employees of Respondents and of other employers in the vicinity. At said meeting said Respondents, by Farrell Hansen and a number of farmers whose names are well known to Respondents, advised, urged and warned said employees not to join or remain members of the Union, but to form a committee or union not affiliated with the Teamsters Union, and threatened to discontinue the sorting of potatoes by their employees if said employees joined or remained members of the Union.

(2) Beginning with on about February 10, 1942, Respondents directly and through Respondent Traffic Association, Carl DeLong, and Eli A. Wes-



ton, attorney of all the Respondents, in conversations and meetings with Potato growers, farmers and representatives of various Granges, criticized and condemned the Union and the proposed collective bargaining agreements which had been presented to Respondents by the Union, and invited and encouraged said persons to assist them in opposing, defeating and disrupting the activities of the Union.

(3) As a direct result of the activities set forth in sub-paragraphs (1) and (2) above, various meetings of local Granges and farmers were held in the vicinity of Idaho Falls, Idaho, during the months of February and March of 1942. At said meetings, as a direct result of activities of Respondents, public statements were made and resolutions passed opposing the Union and its activities, and threatening a boycott of any employers who negotiated or signed agreements with the Union. The statements made and action taken at said meetings were publicized and given circulation among the employees of Respondents.

(4) On or about March 7, 1942 Respondents, by and through Eli A. Weston, their attorney, arranged a meeting of farmers and potato growers at Idaho Falls, Idaho, ostensibly for the purpose of permitting representatives of the Union to explain the program of the Union. At said meeting, in the presence of employees of Respondents, statements were made and resolutions offered and passed by representatives of the Respondents and persons acting on behalf of Respondents, which expressed

the opposition of Respondents to the membership of their employees in the Union and to collective bargaining by the Respondents with the Union, and which threatened loss of employment to said employees if they joined or remained members of the Union.

(5) During the months of February and March, 1942, and thereafter, Respondents made or caused to be made and published in newspapers having circulation among employees of Respondents, numerous public statements and press releases expressing the opposition of Respondents, Granges and farmers to membership of employees of Respondents in the Union and the effort of such employees to bargain collectively through the Union, and threatening such employees with loss of work and the disapproval of public opinion if such membership and effort were continued.

(6) Respondent Potato Growers, Respondent Wilson, Respondent Taube, Respondent Friedman, Respondent Warehouse Company, Respondent O'Neil, Respondent Stewart, Respondent Holden, beginning in January 1942, by and through officials, supervisory employees and agents, have by numerous statements to employees, urged and warned their employees not to join or remain members of the Union, and have discouraged membership in the Union.

### XIII.

All employees of each of the respondents named in paragraphs I to II inclusive, above, employed on the cellar and warehouse crews at the respective



plants or warehouses named in said paragraphs, exclusive of office employees and supervisory employees of higher rank than cellar crew foremen, constitute, in the case of each of said respondents, a unit appropriate for the purposes of collective bargaining within the meaning of Section 9, subsection (b) of the Act.

#### XIV.

At all times since on or about February 10, 1942 the Union has been designated or selected as their representative for the purposes of collective bargaining by a majority of the employees in each of the collective bargaining units described in paragraph XIII above, and by virtue of Section 9, subsection (a) of the Act has been and now is the exclusive representative of all the employees in each of said units for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

#### XV.

At all times since on or about February 23, 1942 Respondent Potato Growers, Respondent Wilson, Respondent Taube, Respondent Friedman, Respondent Warehouse Company, Respondent O'Neil, Respondent Stewart, Respondent Holden and Respondent Traffic Association, acting in the interest and on behalf of said respondents, have jointly and severally failed and refused to recognize or bargain collectively with the Union as the exclusive representative of all the employees of respondents in the units described in Paragraph XIII above, in that;

(1) On and before February 16, 1942 the Union requested each of said respondents to bargain collectively in respect to rates of pay, wages, hours of employment, and other conditions of employment, with the Union as the exclusive representative of all the employees of said respondents in the units above described.

(2) Respondents have, as described above in Paragraph XII, attempted to disrupt the Union and discourage their employees from joining or remaining members of the Union.

(3) Respondents, jointly and severally, have at all times failed and refused to recognize the Union as the exclusive representative of their employees in the units described above in Paragraph XIII.

(4) Respondents, through their attorney, Eli A. Weston, have attempted to induce the Union to withdraw or abandon its requests for recognition and collective bargaining, have interjected into discussions and correspondence with Union representatives subjects and matters collateral or unrelated to collective bargaining; have stalled, delayed and avoided meetings of representatives of said Union; and have completely refused to engage in genuine collective bargaining with said Union in respect to wages, hours of employment and other conditions of employment.

## XVI.

Respondent Potato Growers, on or about February 24, 1942, demoted Milo Rash to an inferior position and thereby forced said Milo Rash to quit his position with said Respondent, or on said date

discharged Milo Rash from its employ; and has at all times since said date refused to reinstate Milo Rash to his former position. Said action was taken by Respondent Potato Growers because of the membership and activities of the said Milo Rash in and on behalf of the Union.

#### XVII.

Respondent Taube, on or about February 5, 1942, discharged from its employ Mervin Crandall, Jack Hendrickson, Willard Moore, Harold Goodell, Clency Wadsworth and C. A. Falk, and since said date has at all times failed and refused to reemploy or reinstate the said employees. Said action was taken by the Respondent Taube because of the membership of said employees in the Union and their activities on behalf of the Union.

#### XVIII.

By the acts and statements described in Paragraphs XII, XIII, XIV and XV, Respondents, and each of them, have interfered with, restrained and coerced, and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the Act, and have thereby engaged in and are thereby engaging in unfair labor practices within the meaning of Section 8, subsection (1) of the Act.

#### XIX.

Respondents, by the acts alleged in Paragraphs XIII, XIV and XV herein, have engaged in and are engaging in unfair labor practices within the meaning of Section 8, subsection (5) of the Act.

## XX.

Respondent Potato Growers and Respondent Taube, by the acts described in Paragraphs XVI and XVII, have discriminated and are discriminating in regard to the hire and tenure or terms and conditions of employment of the employees named in said paragraphs, and have engaged in and are engaging in unfair labor practices within the meaning of Section 8, subsection (3) of the Act.

## XXI.

Respondent Potato Growers and Respondent Taube, by the acts alleged in Paragraphs XVI and XVII herein, have interfered with, restrained and coerced, and are interfering with, restraining and coercing their employees in the exercise of the rights guaranteed to them in Section 7 of the Act, and did thereby engage in and are thereby engaging in unfair labor practices within the meaning of Section 8, subsection (1) of the Act.

## XXII.

The activities of Respondents, and each of them, described above in Paragraphs XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX and XXI, occurring in connection with the operations of Respondents described above in Paragraphs I, II, III, IV, V, VI, VII, VIII, IX, and X, have a close, intimate and substantial relation to trade, traffic and commerce among the several states, and tend to lead to labor disputes burdening and obstructing commerce, and the free flow thereof.

## XXIII.

The acts of Respondents described above constitute unfair labor practices affecting commerce within the meaning of Section 8, subsections (1), (3) and (5) and Section 2, subsections (6) and (7) of the Act.

WHEREFORE, the National Labor Relations Board, on this 14th day of October, 1942, issues its Consolidated Complaint against Idaho Falls Potato Growers Association; W. P. Wilson, L. S. Taube, Ted Taube, and Lloyd B. Holden, co-partners, doing business as L. S. Taube and Co.; Meyer Friedman and Arthur Friedman, co-partners, doing business as S. Friedman & Sons; Idaho Falls Warehouse Company; Rowenah O'Neil, Administratrix for the estate of J. E. O'Neil; A. G. Stewart; C. R. Holden and L. L. Holden, co-partners, doing business as Holden Brothers; and Idaho Traffic Association; Respondents herein.

THOMAS P. GRAHAM, JR.

Regional Director

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## BOARD'S EXHIBIT NO. 1-L

[Title of Board and Causes.]

## NOTICE OF HEARING

Please Take Notice that on the 2nd day of November, 1942 at ten o'clock in the forenoon in a court room in the Bonneville County Court House, Idaho Falls, Idaho, a hearing will be conducted be-

fore a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the Consolidated Complaint attached hereto, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

Copies of the amended charges upon which the consolidated complaint is based are attached hereto.

You are further notified that you have the right to file with the Regional Director for the Nineteenth Region, with offices at 812 Vance Building, Seattle, Washington, acting in this matter as agent of the National Labor Relations Board, an answer to the said consolidated complaint, within ten (10) days from the service thereof.

Please Take Notice that duplicates of all exhibits which are offered in evidence will be required unless, pursuant to request or motion, the Trial Examiner in the exercise of his discretion and for good cause shown, directs that a given exhibit need not be duplicated.

In Witness Whereof the National Labor Relations Board has caused this, its Consolidated Complaint and Notice of Hearing, to be signed by the Regional Director for the Nineteenth Region on this 14th day of October, 1942.

[Seal]

THOMAS P. GRAHAM, JR.

Regional Director National  
Labor Relations Board



BOARD'S EXHIBIT NO. 1-N  
AFFIDAVIT AS TO SERVICE

State of Washington

County of King—ss:

I, Gwen Alexander, being duly sworn, depose and say that I am an employee of the National Labor Relations Board, in the 19th Region at Seattle, Washington; on the 17th day of October, 1942, I served by postpaid registered mail, bearing Government frank, a copy of each of the following:

7 amended charges

1 second amended charge

Complaint (Consolidated)

Notice of Hearing

to the following named persons, addressed to them at the following addresses:

Idaho Falls Potato Growers Association, Idaho Falls, Idaho, Registry No. 243351

Idaho Traffic Association, Idaho Falls, Idaho, Registry No. 243352

S. Friedman & Sons, Idaho Falls, Idaho, Registry No. 243353

L. S. Taube & Company, Idaho Falls, Idaho, Registry No. 243354

A. G. Stewart, Shelley, Idaho, Registry No. 243355

Rowenah J. O'Neil, Idaho Falls, Idaho, Registry No. 243356

Idaho Falls Warehouse Company, Idaho Falls, Idaho, Registry No. 243357

Holden Brothers, Idaho Falls, Idaho, Registry No. 243358



W. P. Wilson, Firth, Idaho, Registry No. 243359

Eli A. Weston, Boise, Idaho, Registry No. 243360

Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Registry No. 243361

GWEN ALEXANDER

Junior Stenographer

Subscribed and sworn to before me this 21st day of October, 1942.

MAUDE SIPPLE

Designated Clerk

[Printer's Note: Return Card Receipts for above Registered Mail attached to this paper.]

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BOARD'S EXHIBIT No. 1-P

[Title of Board and Cause.]

ANSWER

Come Now the Respondents in the Above-Entitled Cases and for Their Answer to the Above-Entitled Complaint Specifically Deny Each and Every Allegation, Matter, and Thing Contained Therein Not Hereinafter Admitted, Qualified or Explained.

I.

The Respondents object to the consolidation of the charges by the Union and deny that the Idaho Traffic Association has engaged in any activities collectively with reference to labor relations. That the problem of each Respondent is individual and without collective action and that there is, therefore, no reason or justification for a consolidated complaint.

II.

Respondents admit Paragraphs I, II, III, IV, V, VI, VII, VIII, and IX.

III.

The Respondent, Idaho Traffic Association, denies Paragraph X of the consolidated complaint and denies that it is an employer under the definition of Section 2 subsection (2) of the National Labor Relations Act and further denies that it has at any time been employed to advise or assist its members with reference to labor relations problems, practices, or policies. Nor has it at any time attempted to act for any of its members in dealing with labor organizations with respect to matters of collective bargaining or otherwise.

IV.

Respondents cannot answer Paragraph XI of the complaint inasmuch as the facts contained therein are without the knowledge of said Respondents.

V.

Respondents, and each of them, deny all of Paragraph XII of the complaint and in connection therewith state that they have been informed through an indirect source that said action may have taken place as a voluntary movement on the part of the farmers and others in the vicinity of Idaho Falls.

In denying subsection (4) of said Paragraph, Respondents allege that at the specific request of Lee W. Owen, Representative of the Union, a meeting was arranged for his benefit and for the purpose

of allowing him to influence the farmers and growers and to explain the Union's position with reference to negotiations. Respondents deny any knowledge of any resolutions which expressed opposition to any Respondents' employees joining the Union or loss of employment for so doing.

In denying subsection (5) of Paragraph XII the Respondents deny any knowledge of any public statements or releases or any threats of loss of work or disapproval of public opinion if employees continued as members of the Union.

Respondent potato growers Wilson, Taube, Friedman, Warehouse Company, O'Neil, Stewart and Holden specifically deny subsection (6) of Paragraph XII and deny they have ever warned their employees not to join or remain a member of the Union but on the contrary have always asserted and explained the employees' right to join any organization they desire without interference by these Respondents.

## VI.

Respondents admit Paragraph XIII of the complaint but deny ever having received notification of appropriate unit for the purposes of collective bargaining or any information or proof that the Union represents 51 percent or any other percent of the employees of each of the Respondents.

## VII.

Respondents deny Paragraph XIV of the complaint and deny that the Union is at the present time representative of a majority of the employees

of any Respondents' places of business and deny that the Union has been selected as the bargaining agent by a majority of said employees. That in connection with this denial Respondents urge that the present employees are the proper group to designate or select their bargaining agent—not the group employed on or about February 10, 1942.

### VIII.

The Respondent, Potato Growers, deny all of Paragraph XV of the complaint both severally and jointly; and in connection therewith allege that although they have asked that the Union prove its right to bargain for Respondents' employees and to prove that it has a majority of said employees in the Union; and although the Respondents have insisted that these employees are "agricultural laborers," they have, nevertheless, met with and discussed terms of the contract with respect to rates of pay, wages, hours of employment and other conditions of employment.

Further answering said Paragraph XV the Respondents allege that the Union has refused to establish or prove that it represents a majority of the employees in any Respondents' establishments and still refuse to do so although request has been made for the same.

Respondents also deny subsection (2), (3) and (4) of Paragraph XV.

### IX.

The Respondent, Idaho Falls Potato Growers, denies all of Paragraph XVI of the complaint and

denies that Milo Rash was demoted to an inferior position to induce him to quit his position, and in connection therewith alleges that said Milo Rash through incompetency, inefficiency and inability to handle his work was at his own request placed in a different position. Respondent denies that said Rash was discriminated against for membership in the Union or for any other reason whatsoever.

### X.

Respondent, Taube, denies all of Paragraph XVII of the complaint and alleges with reference to the employees Mervin Crandall, Jack Hendrickson, Willard Moore Harold Goodell, Clency Wadsworth and C. A. Falk that said employees were laid off because of lack of work and that in picking out the employees to lay off, Respondent Taube took into consideration their ability, efficiency, willingness to cooperate and the length of service of each employee. That at no time did the Respondent discriminate against said employees because of Union activities or any other reason.

### XI.

Respondents deny all of Paragraphs XVIII, XIX, XX, XXI, XXII, XXIII and the whole thereof.

### XII.

Respondents, in addition to denying the allegations of the complaint and original charges deny in the same respect all amended charges filed in the above-entitled cases.

Wherefore Respondents and each of them ask that the complaint with Amendments be dismissed and that the Respondents be absolved of all charges and complaints by the Board or the Union.

Dated at Boise, Idaho, This 27th day of October, 1942.

E. A. WESTON

Their Attorney

Office Address: Sonna Building

Post Office Address: Box 1922  
Boise, Idaho

IDAHO FALLS POTATO  
GROWERS ASSOCIATION

By F. L. HANSEN

L. S. TAUBE, TED TAUBE,  
AND L. B. HOLDEN, CO-  
PARTNERS, DBA L. S.  
TAUBE & COMPANY

By L. B. HOLDEN

IDAHO FALLS WAREHOUSE  
COMPANY

By A. S. MEYER

ROWENAH O'NEIL, ADMIN-  
ISTRATRIX OF THE ES-  
TATE OF J. E. O'NEIL, DE-  
CEASED

By ROWENNAH O'NEIL



C. R. HOLDEN AND L. L.  
HOLDEN, CO-PARTNERS,  
DBA HOLDEN BROTHERS

By C. R. HOLDEN

W. P. WILSON

By W. P. WILSON

MEYER FRIEDMAN AND AR-  
THUR E. FRIEDMAN CO-  
PARTNERS, DBA S. FRIED-  
MAN & SONS

By GEO. D. PETERS

A. G. STEWART

By A. G. STUART

IDAHO TRAFFIC ASSOCIA-  
TION

By [Illegible.]

The above subscribed and sworn to before me this  
28th day of October, 1942 at Idaho Falls, Idaho

[Seal] F. C. SIMONSON

Notary Public, Residing at Idaho Falls, Idaho

My commission expires 5/22/44 19...

Personal Service of the within Answer admitted  
this 29th day of October 1942.

NATIONAL LABOR RELA-  
TIONS BOARD

By WM. A. BABCOCK, JR.

Regional Attorney

Due & Personal Service of the within Answer ad-  
mitted at Idaho Falls this 29th day of October 1942

LOCAL 982 A. F. L.

By LEE W. OWENS

Sec. & Treas.



United States of America  
Before The National Labor Relations Board

Case No. C-2489

In the Matter of

IDAHO POTATO GROWERS, INC. and IDAHO  
TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2490

In the Matter of

W. P. WILSON and IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2491

In the Matter of

L. S. TAUBE, TED TAUBE, AND L. B. HOLD-  
EN, Co-partners, d/b/a L. S. TAUBE & COM-  
PANY and IDAHO TRAFFIC ASSOCIA-  
TION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2492

In the Matter of

MEYER FRIEDMAN AND ARTHUR E.  
FRIEDMAN, Co-partners, d/b/a S. FRIED-  
MAN & SONS, and IDAHO TRAFFIC AS-  
SOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2493

In the Matter of

IDAHO FALLS WAREHOUSE COMPANY and  
IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2494

In the Matter of

ROWENAH O'NEIL, ADMINISTRATRIX OF  
THE ESTATE OF J. E. O'NEIL, DE-  
CEASED, and IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2495

In the Matter of

A. G. STUART and IDAHO TRAFFIC ASSO-  
CIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

Case No. C-2496

In the Matter of

C. R. HOLDEN AND L. L. HOLDEN, Co-part-  
ners, d/b/a HOLDEN BROTHERS and  
IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A.F.L.

## DECISION AND ORDER

On January 9, 1943, the Trial Examiner issued his Intermediate Report in the above-entitled proceedings, finding that the respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and that they take certain affirmative action, as set forth in the copy of the Intermediate Report annexed hereto. Thereafter, the respondents filed exceptions to the Intermediate Report and a brief in support of their exceptions. The Union

has not excepted to the findings and recommendations of the Trial Examiner. The Board has considered the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.

Upon request of the respondents and pursuant to notice, a hearing was held before the Board in Washington, D. C., on March 16, 1943, for the purpose of oral argument. The respondents and the Union were represented by counsel and participated in the hearing.

The Board has considered the Intermediate Report, the exceptions and brief filed by the respondents, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner with the following exception.

The Trial Examiner has found that the employees of the respondent Potato Growers on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Taube on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Wilson on his cellar and warehouse crews at Firth, of the respondent Stuart on his cellar and warehouse crews at Shelley, and of each of the other respondent dealers on the cellar and warehouse crews at Idaho Falls, exclusive of office employees and supervisory employees of higher rank than cellar crew foreman, constitute in the case of each of said respondents a separate unit appropriate for the purposes of collective bargaining. The evidence indicates, however, that in the case of at least one of

the respondents, cellar crew foremen have the power to hire and discharge members of their crews. We shall therefore exclude such cellar crew foremen from the appropriate units. We accordingly find that at all times material herein the employees of the respondent Potato Growers on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Taube on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Wilson and his cellar and warehouse crews at Firth, of the respondent Stuart on his cellar and warehouse crews at Shelley, and of each of the other respondent dealers on the cellar and warehouse crews at Idaho Falls, exclusive of office employees, cellar crew foremen having the power to hire and discharge, and supervisory employees of higher rank than cellar crew foremen, constituted, and that they now constitute, in the case of each of said respondents, a separate unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.<sup>1</sup>

### ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations

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<sup>1</sup>The parties stipulated at the hearing that a majority of the employees in each of the units found to be appropriate had, in or about February 1942, designated the Union as their collective bargaining representative. So far as the record shows, exclusion from the appropriate units of the comparatively small number of cellar crew foremen having the power to hire and discharge will not affect the Union's representative status.

Act, the National Labor Relations Board hereby orders that:

1. The respondents, Idaho Potato Growers, Inc.; W. P. Wilson, L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company; Meyer Friedman and Arthur E. Friedman, co-partners doing business as S. Friedman & Sons; Idaho Falls Warehouse Company; Rowenah O'Neil, administratrix of the Estate of J. E. O'Neil, deceased; A. J. Stuart; C. R. Holden and L. L. Holden, co-partners doing business as Holden Brothers; and Idaho Traffic Association, when acting as agent for or in the interest of any of the other respondents; and their respective officers, agents, successors, and assigns, shall:

a. Cease and desist from:

(1) Refusing to bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of the employees of the respondent dealers in each of the units found above to be appropriate for the purposes of collective bargaining;

(2) In any other manner interfering with, restraining, or coercing the employees of the respondent dealers in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.



b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(1) Upon request, bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of all the employees of the respondent dealers in each of the units found above to be appropriate with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(2) Post immediately in conspicuous places in the respective warehouses of the respondent dealers in Idaho Falls, Firth, and Shelley, and in the place of business of the Idaho Traffic Association in Idaho Falls, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to employees of the respondent dealers stating that the respondents will not engage in the conduct from which they are ordered to cease and desist in paragraphs 1, a, (1) and (2) of this Order, and that they will take the affirmative action set forth in paragraph 1, b, (1) of this Order;

(3) Notify the Regional Director for the Nineteenth Region in writing, within ten (10) days from the date of this Order, what steps they have taken to comply herewith.

2. The respondents L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company, and their agents, successors, and assigns, shall, in addition:



a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of their employees, by discharging or refusing to reinstate any of their employees or in any other manner discriminating in regard to their hire and tenure of employment or any term or condition of their employment.

b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act.

(1) Make whole Willard Moore for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which he obtained his present employment, less his net earnings during such period;

(2) Insert in the notice which they are directed to post in paragraph 1, b, (2) of this Order the statement that they will not engage in the conduct from which they are ordered to cease and desist in paragraph 2, a, of this Order; that they will take the affirmative action set forth in paragraph 2, b, (1) of this Order; that their employees are free to become and remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that they will not discriminate against any em-

ployee because of membership in or activity on behalf of that organization;

3. The respondent Idaho Potato Growers, Inc., and its officers, agents, successors, and assigns, shall, in addition:

a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees or in any other manner discriminating in regard to their hire and tenure of employment or any term or condition of their employment.

b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(1) Make whole Milo Rash for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which his wife obtained her present civil service employment, less his net earnings during such period;

(2) Insert in the notice which it is directed to post in paragraph 1, b, (2) of this Order the statement that it will not engage in the conduct from which it is ordered to cease and desist in paragraph 3, a, of this Order; that it will take the affirmative action set forth in paragraph 3, b, (1) of

this Order; that its employees are free to become and remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that it will not discriminate against any employee because of membership in or activity on behalf of that organization.

And It Is Further Ordered that the complaint be, and it hereby is, dismissed, insofar as it alleges that the respondents L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company, discriminated in regard to the hire and tenure of employment of Jack C. Hendricksen, C. A. Falk, Clency L. Wadsworth, Marvin Crandall, and Harold Goodell.

Signed at Washington, D. C., this 10th day of April 1943.

HARRY A. MILLIS

Chairman

GERARD D. REILLY

Member

JOHN M. HOUSTON

Member

NATIONAL LABOR RELATIONS BOARD

[Title of Board and Cause.]

MR. WILLIAM A. BABCOCK, JR., and  
MR. LOUIS S. PENFIELD,

for the Board.

MR. E. A. WESTON, of Boise, Idaho,

for the respondents.

MR. LEE OWEN, of Pocatello, Idaho,

for the Union.

## INTERMEDIATE REPORT

### Statement of the Case

Upon charges duly filed by Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, affiliated with the American Federation of Labor, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Nineteenth Region (Seattle, Washington), issued its complaint dated October 14, 1942, against Idaho Potato Growers, Inc., herein called Potato Growers; W. P. Wilson, herein called Wilson; L. S. Taube, Ted Taube, and L. B. Holden, co-partners, doing business as L. S. Taube & Company, herein called Taube; Meyer Friedman and Arthur E. Friedman, co-partners, doing business as S. Friedman & Sons, herein called Friedman; Idaho Falls Warehouse Company, herein called Warehouse Company; Rowenah O'Neil, administratrix of the estate of J. E. O'Neil, deceased, both this administratrix and business predecessor being at times

referred to herein as the respondent O'Neil;<sup>2</sup> A. G. Stuart, herein called Stuart; C. R. Holden and L. L. Holden, co-partners, doing business as Holden Brothers, both this respondent and its predecessor firm Holden Brothers, Inc., being at times referred to as the respondent Holden; and Idaho Traffic Association, herein called Traffic Association.<sup>3</sup> The complaint alleged that the respondents had engaged in and were engaging in unfair labor practices within the meaning of Section 8 (1) and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act, and that the respondents Potato Growers and Taube had each also engaged in and were engaging in un-

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<sup>2</sup>Although J. E. O'Neil and Holden Brothers, Inc., are not parties respondent to these proceedings, at times in this Report they, as business predecessors to the respondents Rowenah O'Neil, administratrix of the estate of J. E. O'Neil, and L. S. Taube, Ted Taube, and L. B. Holden, co-partners, doing business as L. S. Taube & Company, respectively, for purposes of convenience only are included when reference is made collectively to "the respondents" and to "The respondent dealers." Whether the terms refer to the business predecessor depends in each instance on the time the respondents O'Neil and Holden began business operations as business successors of J. E. O'Neil and Holden Brothers, Inc., respectively. The extent to which J. E. O'Neil and Holden Brothers, Inc., are responsible for the unfair labor practices is discussed in Section V *infra*.

<sup>3</sup>The first eight named respondents represent eight different cases, Idaho Traffic Association being also named as a party respondent in each of these cases. By a corrected order dated September 30, 1942, these cases were consolidated.



fair practices within the meaning of Section 8 (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act, and that the respondents Potato Growers and Taube had each also engaged in and were engaging in unfair labor practices within the meaning of Section 8 (3) and Section 2 (6) and (7) of the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon each of the respondents and the Union.

With respect to the unfair Labor practices the complaint as amended at the hearing alleged in substance: (1) that the respondents by and through the respondent Traffic Association and its executive secretary and others did on or about January 24, 1942, cause a meeting to be held at Idaho Falls, Idaho, of employees of the respondents Potato Growers, Wilson, Taube, Friedman, Warehouse Company, O'Neil, Stuart, and Holden, and the respondents and a number of farmers well known to them advised, urged, and warned said employees not to join or remain members of the Union; but to form an unaffiliated committee or union, and threatened to discontinue work of the employees if they joined or remained union members; (2) that on or about February 10, 1942, and thereafter, the respondents directly and through the respondent Traffic Association, its executive secretary, and a named attorney for the respondents in conversations and meetings with farmers and Grange representatives condemned the Union and collective bargaining contracts presented by it to the respondents and encouraged said persons to assist in opposing the

Union; (3) that as a result of these activities of the respondents various local Grange and farmers' meetings were held during February and March 1942 at which statements were made and resolutions passed in opposition to the Union and threats made to boycott dealers who entered into agreements with the Union, said activities being publicized and circulated among employees of the respondents; (4) that on or about March 7, 1942, the respondents arranged a meeting of farmers and potato dealers, ostensibly for the purpose of allowing union representatives to explain the program of the Union, at which time statements were made and resolutions passed in opposition to membership of the respondents' employees in the Union and to collective bargaining with the Union, and threats were made to employees that there would be loss of work if they joined or remained members of the Union; (5) that in February and March 1942, and thereafter, the respondents made or caused to be made and published in newspapers circulated among the employees statements and press releases expressing opposition of the respondents, farmers, and Granges to employee membership in the Union and to the attempts at collective bargaining, threatening loss of work and disapproval of public opinion if such membership and attempts were continued; (6) that the respective respondents Potato Growers, Wilson, Taube, Friedman, Warehouse Company, O'Neil, Stuart and Holden, beginning in January 1942, have urged and warned their employees to refrain from union membership; (7) that the respondents jointly and severally have failed and refused by



specified acts to bargain collectively with the Union, as representative of the respective respondents' employees in appropriate units, although the Union at said times represented employees of each of the respondents in the appropriate units; (8) that the respondent Potato Growers on or about February 24, 1942, demoted a named employee to an inferior position and forced him to quit his employment, or discharged and refused to reinstate him because of his membership in and activities on behalf of the Union; (9) that the respondent Taube on or about February 5, 1942, discharged and refused to reinstate six named employees because of their membership in and activities on behalf of the Union.

The respondents, prior to the hearing, filed an answer in which they denied the commission of any unfair labor practices. The respondents also amended their answer at the hearing, alleging in the amendment that the units set forth in the complaint with respect to the respondents Potato Growers and Taube were not appropriate.

Pursuant to notice, a hearing was held at Idaho Falls, Idaho, from November 2 to 10, 1942, before the undersigned, the Trial Examiner duly designated by the Acting Chief Trial Examiner. The Board and the respondent were represented by counsel and the Union by its representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. The respondents moved during the hearing for a dismissal of the complaint with respect to the Traffic Association, on the ground that it was not an employer

within the meaning of the Act. They also moved for a dismissal of the complaint both in part and in its entirety on various grounds.<sup>4</sup> Ruling on these motions was reserved. Except as otherwise hereinafter indicated they are denied. At the close of the hearing motions were made to amend the pleadings to conform to the proof with respect to names and similar matters. There was no objection and the motions were granted. Also at the close of the hearing counsel for the Board and the respondents argued orally before the undersigned. The opportunity of filing briefs with the undersigned was likewise afforded, but only counsel for the Board has availed himself of the privilege.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes the following:

## FINDINGS OF FACT

### I. The business of the respondents

All of the respondents except the Traffic Associa-

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<sup>4</sup>The grounds urged included the contention that the employees involved were engaged in agriculture and for such reason the Board did not have jurisdiction; that the consolidation of the cases was improper and prejudicial; that the Board had never determined whether the Union was the employees' collective bargaining representative; and that the Board had no jurisdiction over the respondents Holden, O'Neil and Friedman. Regarding Holden and O'Neil it was contended that they could not properly be held accountable for the unfair labor practices of their business predecessors. Regarding Friedman it was urged that no business operations had taken place during the current season.

tion, being herein at times called the respondent dealers, are dealers in potatoes in Idaho Falls, Idaho, and vicinity. The respondent dealers except the Potato Growers customarily buy lots of potatoes from other dealers and farmers in the vicinity, and pack, load, ship, and re-sell them. The respondent Potato Growers, being a cooperative enterprise, does not buy the potatoes in which it deals but ships them for the account of farmers, both members and non-members, and of other dealers with all of whom it ordinarily makes final settlement at the end of the season. All of the respondent dealers maintain warehouses and employ country crews in the Snake River Valley in the vicinity of Idaho Falls, Idaho. The specific operations of each are particularized below.

The respondents L. S. Taube, Ted Taube, and L. B. Holden, doing business as L. S. Taube & Company, are a copartnership with their principal office in Kansas City, Missouri. This firm maintains warehouses for the handling of potatoes at both Idaho Falls and Shelley, Idaho. It buys potatoes in the vicinity of these warehouses from both growers and dealers and re-sells them. During the 1941-42 season it sold and shipped from its Idaho Falls and Shelley warehouses approximately 1000 carloads of potatoes, more than 90 percent of which were shipped to points outside the State of Idaho.

The respondent W. P. Wilson maintains a warehouse for the handling of potatoes at Firth, Idaho. Between 10 and 15 percent of the potatoes handled by him during the 1941-42 season consisted of pota-

atoes grown by himself, the remainder of the potatoes handled by him during that period consisting of potatoes bought by him from other dealers and growers and re-sold by him. He sold and shipped from his Firth plant during the 1941-42 season approximately 450 carloads of potatoes, about 90 percent of which were shipped to points outside the State of Idaho.

Meyer and Friedman and Arthur E. Friedman are co-partners, doing business as Friedman & Sons. This firm, whose main office is in Chicago, Illinois, leases and operates a warehouse at Idaho Falls for the handling of potatoes. It is generally engaged in the produce business in various States. In the course of its Idaho Falls operations it purchases potatoes from growers and other dealers. During the 1941-42 season it sold and shipped from its Idaho Falls warehouse approximately 360 carloads of potatoes, about 90 percent of which were sold and shipped to points outside the State of Idaho.

Idaho Falls Warehouse Company, an Idaho Corporation, among various business enterprises conducted by it at Idaho Falls, maintains a warehouse for the handling of potatoes. This respondent not only buys potatoes from growers and dealers for re-sale, but also at times acts as an agent in the handling of potatoes for growers. About 65 to 85 percent of the potatoes handled by it during the 1941-42 season were purchased by it for re-sale. During that season this respondent shipped approximately 700 carloads of potatoes, about 90 percent of which were sold and shipped to points outside the State.

Idaho Potato Growers, Inc., is a non-profit co-operative association, incorporated under the laws of the State of Idaho. This respondent sorts, packs, ships and sells potatoes for both its members and other growers. It also at times markets in carload lots potatoes acquired from other dealers. It carries on a substantial portion of its operations in the vicinity of Idaho Falls and Shelley, Idaho, and maintains a warehouse at each of these places.

Its method of handling potatoes is to find a buyer who offers to purchase potatoes at a stipulated sum and then by oral agreement with the grower or dealer to dispose of his potatoes to the buyer at the offered price less expenses incurred by the Potato Growers in the course sorting, packing and handling them. At the end of the season this respondent makes settlement with the growers and dealers whose potatoes it has handled during the season. During the 1941-42 season the Potato Growers shipped approximately 1300<sup>5</sup> carloads of potatoes in the course of its operations in these vicinities. About 95 percent of these potatoes were shipped to points outside the State of Idaho. Some of the potatoes handled by this respondent during the 1941-42 season were sold to the United States Army.

Rowenah O'Neil is the duly appointed and acting administratrix of the estate of J. E. O'Neil, de-

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<sup>5</sup>This respondent shipped during the 1941-42 season a total of about 2500 carloads of potatoes in the course of its operations throughout the State of Idaho. Its manager testified that slightly more than half of these were from the Idaho Falls and Shelley operations.



ceased. As administratrix she carries on the business of J. E. O'Neil in substantially the same manner as it was conducted by the latter before his death in August 1942.

O'Neil before his death and Rowenah O'Neil, administratrix, since that time have maintained a warehouse in Idaho Falls for the handling of potatoes. During the 1941-42 season he bought 800 to 900 carloads of potatoes from growers and other dealers, of which more than 90 percent was shipped and sold outside the State of Idaho.

A. G. Stuart owns and operates a warehouse at Shelley, Idaho. He handles in the course of his operations at Shelley potatoes grown by both himself and other growers. During the 1941-42 season about 95 percent of the potatoes handled by him was bought from other growers. During the season 1941-42 he sold and shipped approximately 200 carloads of potatoes, about 95 percent of which was sold and shipped to points outside the State of Idaho.

C. R. Holden and L. L. Holden, doing business as Holden Brothers, are a co-partnership. This firm, which came into existence in July 1942, owns and operates a warehouse at Idaho Falls where it handles potatoes and operates a general produce business. At the time this partnership was organized it acquired this property in Idaho Falls from Holden Brothers, Inc., an Idaho Corporation, which was liquidated in June 1942. C. R. Holden, L. L. Holden, and an individual in New York were the sole stockholders in this corporation, which op-

erated a produce business both in New York and in Idaho Falls. During the 1941-42 season this corporation sold 739 cars of potatoes acquired from growers, 610 of these cars being sent to points outside the State of Idaho. The corporation sold 129 carloads on the tracks at Idaho Falls for cash and the buyers sent most of the cars so purchased to points outside the State of Idaho. The Holdens operated the corporation's Idaho business and at or about the time of the liquidating of the corporation acquired the Idaho interests of the third stockholder. Since that time the co-partnership as described above has operated the same type of business as was conducted at Idaho Falls by the corporation.

Idaho Traffic Association is an Idaho corporation with its office at Idaho Falls. This corporation was organized in September 1941 for the purpose of rendering aid and assistance to shippers with respect "to traffic problems of all kinds, and matters arising out of the preparation, inspection, sale and shipment of merchandise and commodities of whatsoever nature." It has no stockholders, but issues memberships instead of stock. All the respondent dealers and about seven other potato dealers and shippers in the vicinity of Idaho Falls hold such memberships. For some time since prior to 1942 the Association has sponsored a luncheon meeting each Monday in Idaho Falls. Representatives of the member companies and some others have attended these meetings. Carl DeLong, executive secretary of the respondent Traffic Association, has



usually presided at these meetings. Early in 1942 after the Union became active in Idaho Falls and asked the respondents and certain other potato dealers and shippers to bargain collectively with it as representative of their respective employees, as described more fully below, Eli Weston, counsel for the respondents, received an invitation to attend one of these meetings. He did so and the respondents and others present voted to retain him to represent them in labor negotiations. He later received a fee paid by a check of the Traffic Association.<sup>6</sup>

## II. The employees

As set forth above, the respondent dealers handle potatoes which they acquire from farmers and other dealers. The employees who sort and pack potatoes for each of these respondents in the process of preparing them for market, except when performing certain odd jobs in the warehouses,<sup>7</sup> work in crews. The work done by the crews of each of these respondents is substantially the same. A crew, consisting of about eight employees, works at a sorter machine run by electric power. The employees on a crew usually consist of four employees known as

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<sup>6</sup>Most of the respondents made a contribution to the Association for this purpose. At least one of them, however, appears to have paid its portion of the fee direct to Attorney Weston. See footnote 26, *infra*.

<sup>7</sup>The work of Milo Rash discussed *infra* is an example of such an odd job. Carloading and packing potatoes for special types of shipment are other examples of such work.

sorters, one as a scooper, one as a jigger, one as a swamper, and one as a sack sewer.

After a dealer has agreed with a grower to buy or handle the latter's potatoes it is necessary to sort the potatoes according to grade and pack them for shipment. This work is performed either in the dealer's warehouse or in the grower's cellar by one of these crews which works at the sorter machine where it grades, weighs and sacks the potatoes. Most of such work as is done in the various warehouses of the respondent dealers takes place during a rush period of a few weeks in the fall of the year. Throughout the season considerable of such work is done in the growers' cellars. Approximately 90 percent of the potatoes handled by some of the respondent dealers are graded and packed in the country. If the work is done in the country it is necessary for either the farmer or the dealer to truck the potatoes to the dealer's warehouse or direct to railroad cars. If it is done in the dealer's warehouse the potatoes are then loaded on cars at the warehouse for shipment.

At times the potatoes are only partially sorted in the grower's cellar. In such instance, they are not graded and all of the culls are not removed, so there has to be a further sorting at the dealer's warehouse. At times also the potatoes are of such a quality that it is necessary for the respondent dealers to wash them at the warehouse before they will pass government inspection.

The respondents contend that the employees who sort and prepare the potatoes for shipment in the

growers' cellars and the dealers' warehouses on the crews described above are engaged in agriculture and that the Act does not give the Board jurisdiction over these employees.<sup>8</sup> These crews, whether working in a farmer's cellar or in a dealer's warehouse, are under the supervision of the warehouse foreman. When working in a farmer's cellar they are under the immediate direction of a crew foreman who is also known as head sorter man. When work is to be done in a farmer's cellar a complete crew is usually sent by the dealer from the warehouse. At times, however, the dealer does not send a complete crew because the farmer himself works as a member of the crew and at times also has one or more farm hands work as members of the crew. Usually the dealer pays the wages of the crew members sent to the country by him, although on occasions the farmer pays them for the work done in his cellar. Except for the unusual cases when the farmer pays the crew, the dealer deducts from the sales price paid the farmer for the potatoes the amount paid the crew as wages in sorting and packing the potatoes.

The farmer at times is dissatisfied with the job of sorting being done by the crew and in such cases customarily registers his complaint with the crew foreman whether the complaint is directed to individuals on the crew or to the crew as a whole.

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<sup>8</sup>Section 2 (3) of the Act excludes "Agricultural labor" from the term "employee" as therein defined and consequently from the jurisdiction of the Board as confined by the Act.

Occasionally after a farmer registers his complaint the crew is stopped from working until a representative of the respondent dealer comes to the cellar and adjusts the complaint. There is no evidence that any member of a crew has ever been discharged because a farmer complained about the crew member's work. The authority to hire and discharge crew members finally rests with the foreman or managers of the respective respondent's warehouses, although crew foremen of country crews frequently are allowed to select their own crews. When the potato season begins each fall the respondent dealers customarily rehire upon application satisfactory crew members who have previously worked for them.

From the facts as detailed above it is obvious that the warehouse and cellar crews are employees of the respective respondent dealers. They work under supervisors designated by the dealer. They work either in the dealer's warehouse or in the cellar of growers with whom the dealer has made arrangements to buy or dispose of potatoes. The farmers and farm hands furnished by them to "fill in" on crews are not involved in this case, but only such employees as are carried on the respective respondent dealers' payrolls. The undersigned is convinced that these employees are not agricultural laborers within the meaning of the Act. The services of these employees are not rendered in the fields. Their work looks not toward the production of potatoes but toward their marketing. Their services are devoted entirely to the sorting of

potatoes, and their grading, weighing, sacking, preparation for shipment, and loading. The work is of such a nature that it can be done in the dealer's warehouse as well as in the farmer's cellar. The undersigned finds that the cellar and warehouse crews employed by the respondent dealers are not employed as agricultural laborers.<sup>9</sup>

### III. The organization involved

Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, is a labor organization affiliated with the American Federation of Labor. It admits to membership employees of the respondent dealers.

### IV. The unfair labor practices

#### A. Opposition to the Union during its attempt to

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<sup>9</sup>Matter of Upland Citrus Association and Citrus Packing House Workers' Union No. 20915, 24 N.L.R.B. 1136; North Whittier Heights Citrus Association v. N.L.R.B. 109 F. (2d) 76 (C.C.A. 9), cert. denied 310 U.S. 632, rehearing denied 311 U.S. 724, enf'g Matter of North Whittier Heights Citrus Association and Citrus Packing House Workers Union, Local No. 21091, 10 N.L.R.B. 1296; Matter of American Fruit Growers, Inc., et al and Fruit & Vegetable Workers Sub-Local of No. 191, UCAPAWA, C.I.O., 10 N.L.R.B. 316; Matter of George G. Averill, et al, and Fresh Fruit & Vegetable Workers Union, Local 78, C.I.O., 13 N.L.R.B. 411; Matter of Grower-Shipper Vegetable Association of Central California, et al, and Fruit and Vegetable Workers' Union of California, No. 18211, 15 N.L.R.B. 322, modified in other respects by N.L.R.B. v. Grower-Shipper Vegetable Ass'n 122 F. (2d) 368 (C.C.A. 9). Cf. Matter of Stark Brothers Nurseries and Orchards Company, a corporation, and Local Industrial Union No. 1129, affiliated with the C.I.O., 40 N.L.R.B. 1243.



organize the potato workers; interference, restraint and coercion

In August 1941 Jack C. Hendricksen, an employee of the respondent Taube, had a conversation with Keyes Blair, "an executive of the Carpenters' Union."<sup>10</sup> Blair suggested to Hendricksen that some of the employees of potato dealers attend a meeting of meat cutters and grocery clerks. Hendricksen and three other such employees attended such a meeting. Blair on that occasion explained to these employees how to start a labor organization. Two or three weeks later one Rosquist, an American Federation of Labor executive, called at Hendricksen's home and suggested to Hendricksen that petitions be circulated among those employees interested in forming a labor organization. Hendricksen, C. A. Falk and another employee of the respondent Taube caused such petitions to be circulated among employees of that respondent and also among employees of the respondents Potato Growers, Holden, and the Warehouse Company. In January 1942 Raymond L. Hansen, an organizer for the "Joint Council of Teamsters," came to Idaho Falls and began to organize the creamery workers in the vicinity. Hendricksen and Falk, another employee of the respondent Taube, called on Hansen while he was in Idaho Falls and turned over to him some

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<sup>10</sup>This testimony apparently refers to United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor.

of the petitions which had been circulated among the potato growers. Hansen told these two employees that arrangements would be made for a meeting of the potato workers on January 16. An organizational meeting was held at that time.

News that the Union was organizing these workers soon spread among the respondent dealers and other dealers and also among the farmers in the vicinity of Idaho Falls. About January 20, after Milo Rash, an employee in the warehouse of the Potato Growers, had signed an application for membership in the Union, Fred Foreman, who had supervision over employees in the Idaho Falls warehouse of the Potato Growers, called Rash into the foreman's office. Rash's uncontradicted testimony, which the undersigned credits, was that Foreman asked him "what all this union business was about," saying that "several people of the different dealers" had telephoned that Rash was the instigator of it. Moreover, according to the uncontradicted testimony of Swen Sorman, an employee of J. E. O'Neil at the time, in about January 1942 O'Neil's foreman, Lloyd Johnson, in the presence of Sorman and other O'Neil employees at the O'Neil warehouse in Idaho Falls, stated that O'Neil and several others had retained an attorney who was "going to break the Union so the Union would never go through." This testimony is credited by the undersigned.

Thereafter, on the evening of January 23, 1942, Farrel L. Hansen, manager, Fred Gustafson, secretary treasurer, and E. S. Trask, a director of the Potato Growers, C. R. Holden, L. B. Holden, J. E.



O'Neil, Carl DeLong, A. G. Stanger, manager of the Warehouse Company, and about 50 other persons, mostly farmers interested in the growing of potatoes, held a meeting in a hotel in Idaho Falls, to discuss the matter of the Union's drive to organize the potato workers. The farmers expressed concern over any possible increase in the wages of potato workers and asked the dealers present the nature of the employees' complaint. It was decided that a committee of farmers be appointed to invite a representative of employees from each potato dealer's warehouse to attend a meeting with the farmers next day at the Idaho Falls City Hall and discuss settlement of the difficulty. It was understood by those present that this discussion was to be for the purpose of attempting to adjust differences without the intervention of an "outside union." It does not appear from the evidence whether or how the committee issued invitations to the meeting to be held next day. All of the respondent dealers, however, asked certain of their employees to attend this meeting. Before the meeting on the afternoon of January 24, Manager Hansen of the Potato Growers told Ernest Norell and one or two other employees of that respondent about the meeting and said he wanted them to be present. About the same time Rash asked Foreman if he should attend the meeting to be held that afternoon. Foreman said, "Yes, I want you to go." Foreman also told Rash that he would be paid for time spent at the meeting. About noon the day of the meeting Warren Coon, buyer for the respondent Taube, went to a cellar in the

country where a crew of that respondent's employees were at work. He announced the meeting to be held that afternoon at the City Hall and gave instructions that two members of the crew were to attend. He stated that wages would be paid as usual to those who attended. The crew selected two of its members, Willard Moore and Jack Hendricksen, to attend. Rash, Moore, Hendricksen and the other respondent dealers' employees who attended this meeting were paid for their time so spent.

The meeting at the City Hall was attended by 60 to 70 people. Employees from dealers operating in the Idaho Falls, Shelley, and Firth areas, including employees of all the warehouses affected by this proceeding, attended the meeting. George Hersley, a farmer, presided at the meeting<sup>11</sup> and informed those present of the fact that he and four other farmers who were present had been selected as a committee to talk to the employees and propose that they form a union of their own. He stated that "the carpenters and the laborers and everybody else" in the Pocatello area, which was near Idaho Falls, "had made a racket of labor unions and he sure didn't want that same condition to come to Idaho Falls." He said there was no need of letting their money get out of the State when they could keep it at home. He introduced one West. West stated that the community had always gotten along all right until "these God damned racketeers and

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<sup>11</sup>Hersley also had acted as chairman of the January 23 meeting.

agitators came in here" and caused trouble. Manager Hansen and Secretary-Treasurer Gustafson<sup>12</sup> of the Potato Growers were both present at the meeting and spoke. Hansen stated, among other things, that the employees at the Potato Growers had always been one happy family until the Union had started trouble. Organizer Hansen testified that on this occasion Gustafson stated that a few years previous he and Manager Hansen had succeeded in getting the State legislature to enact a so-called "potato sorting bill"; that this bill caused an increase in employment for people who worked in sorting and packing potatoes; and that Gustafson and Manager Hansen would return to the legislature and obtain repeal of this law "unless conditions changed." Neither Gustafson nor Manager Hansen specifically denied this testimony of Organizer Hansen and the undersigned credits his testimony as stated above.<sup>13</sup>

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<sup>12</sup>Gustafson was also one of the farmers on the committee referred to by Hersley, chairman of the meeting.

<sup>13</sup>Organizer Hansen also testified that Gustafson stated he would gladly spend time in jail for the opportunity to "run a pitchfork" through Hansen's "God damn guts." This testimony was vehemently denied by Gustafson. Manager Hansen and other respondents' witnesses testified that Gustafson made no mention of attacking Organizer Hansen with a pitchfork. Manager Hansen and Gustafson testified that the legislation they had sponsored was adverted to by Gustafson as indicating their pro-labor attitude, but the other witnesses for the respondents failed to controvert Organizer Hansen's version of Gustafson's threat involving this legis-

It is obvious from the facts detailed above that the meeting of January 24, 1942, was not an attempt by the respondent dealers to enable the Union to reach an understanding with the farmers. On the contrary the purpose of the meeting, as stated when it was planned, was to settle labor difficulties by methods which would defeat the Union. Manager Hansen and Secretary-Treasurer Gustafson further gave their support to these activities by the statements made at the meeting. They, Trask, C. R. and L. B. Holden, J. E. O'Neil and Carl DeLong further lent their assistance by helping plan the meeting. The respondents Potato Growers, Taube, and Warehouse Company lent assistance by asking certain of their employees to attend.

The undersigned finds that by the remarks of Foreman to Rash as detailed above; by the conduct of Manager Hansen, Secretary-Treasurer Gustafson and Director Trask, L. B. Holden, and Manager Stanger in helping plan the meeting of January 24; by the speeches of Hansen and Gustafson at the meeting; and by the acts of the respondents Potato Growers, Taube, and Warehouse Company in asking certain of their employees to attend the meeting knowing its anti-union purpose, the respondents Potato Growers, Taube, and Warehouse Company interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in

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lation. Under the circumstances, the undersigned finds that although Gustafson threatened repeal of the "potato sorting bill," he did not speak of assaulting Organizer Hansen with a pitchfork.

Section 7 of the Act. The effect of the conduct of C. R. Holden, J. E. O'Neil, Lloyd Johnson, and Carl DeLong will be discussed hereinafter.<sup>14</sup>

B. The cases of discrimination

1. The discrimination of the respondent  
Taube against Moore.

The complaint alleges that on February 5, 1942, the respondent Taube, terminated the employment of Willard Moore, Jack C. Hendricksen, Clency L. Wadsworth, C. A. Falk, Mervin Crandall and Harold Goodell because of their membership in and activity on behalf of the Union. The respondent Taube denies that these employment terminations were for union membership and activity, but contends that in making them it singled out those employees who were least capable. A total of eleven lay-offs were made at the time and the evidence shows that a decline in business necessitated such a number of lay-offs. The question is whether the six employees named above were singled out for inclusion among those to be laid off because of their union membership and activity.

Carl Metcalf, foreman of the respondent Taube's Idaho Falls warehouse, after conferring with L. B. Holden, prepared a list of those to be laid off on February 5. According to Holden, he told Metcalf at the time to keep efficient men on the job. Metcalf's attitude toward the Union is shown by the

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<sup>14</sup>See Section V *infra*.



uncontradicted testimony of Wadsworth,<sup>15</sup> which the undersigned credits, about a remark made by Metcalf in the presence of Wadsworth and other employees a week to ten days before these employment terminations. On that occasion Metcalf said regarding the Union, "Now that you belong to the God damned Union do you feel any better about it?" L. B. Holden's participation in the meeting of January 23, which was designed to thwart the Union, has been discussed above.

Willard Moore, one of those whose employment Metcalf terminated on this occasion, began work for the respondent Taube in the fall of 1936. He worked for it every season thereafter until February 5, 1942, except for one voluntary lay-off from February until December 1941. Moore attended the Union's organizational meeting on January 16 and joined the Union. He attended and spoke at the meeting at the City Hall on January 24. Hersley, chairman of the meeting, stated that the Union would take money out of the State, and Moore answered this contention by stating that his experience as a member of a labor organization on the coast showed that "this condition did not exist." Moore also stated on this occasion that it should be possible for the Union and the dealers to come to an agreement which would improve the conditions of the employees "without hurting the dealer very much."

On the afternoon of February 5 after the eleven employees mentioned above had returned to the

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<sup>15</sup>Wadsworth at times worked in the country and when doing so was crew foreman.

warehouse from work in the country, Metcalf told Moore and the others that he had orders from the office to lay them off. On the same crew with Moore was Hyrum Beck, a sorter hand. Beck had worked for the respondent Taube only since the spring of 1941. Also on the same crew were Cleo Teats, Milton Aller, and Dave Mahoney. Teats, a scooper, was working his first season for the respondent Taube; Aller, a jigger, and Mahoney, a cull picker,<sup>16</sup> were working only their second season. Moore, who at the time was a cull picker, had also had experience at other types of sorting and also as a scooper and jigger.

The respondent Taube contends that it had no policy as to seniority and for that reason did not give weight to seniority in making these lay-offs. However, during the month of December 1941 before the advent of the Union this respondent similarly found it necessary to make eight lay-offs. All of those laid off at that time were working their first season at this respondent's Idaho Falls warehouse. Moreover, prior to the December lay-offs Metcalf conferred with Clifford Moore, a country crew foreman, as to what members of his crew should be laid off. Moore recommended that an employee on his crew who was working his first season be laid off. In February, however, Metcalf did not confer with Moore regarding the lay-offs to be made, although three employees from Moore's crew were at the time

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<sup>16</sup>A cull picker is a type of sorter.



laid off, more than from any other crew. One of them was Willard Moore.<sup>17</sup>

L. B. Holden, testifying as to why Moore was laid off, stated that he was one of the youngest men on the crew,<sup>18</sup> and "a little slow on the table, possibly." Metcalf, who had supervision over the warehouse and country crews of the respondent Taube, was not called as a witness. Clifford Moore, Willard Moore's crew foreman, described the latter as a "good man in the crew." Metcalf did not consult with Foreman Moore during the 1941-42 season about the quality of work of Willard Moore. He visited the cellars where this crew worked during the season only three or four times and remained only 15 to 30 minutes on these occasions. Moreover, at the time of the lay-offs Moore and Hendricksen, discussed below, asked Metcalf if their work was satisfactory and Metcalf replied affirmatively. All the circumstances detailed above, when studied in connection with Holden and Metcalf's animus toward the Union, raise the question whether the respondent Taube terminated the employment of Moore because of his union membership and activity. L. B. Holden's activities to thwart the Union and Metcalf's remark made prior to these lay-offs in opposition to

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<sup>17</sup>The other members of Clifford Moore's crew to be laid off were Hendricksen, whose case is discussed below, and Jim Singleton, who is not named in the complaint.

<sup>18</sup>Holden apparently referred to Moore's service during the 1941-42 potato season, as Moore had worked for this respondent since the fall of 1936.

the Union have been stated above. Soon after the lay-offs the Union sought execution on behalf of its members of collective bargaining contracts with the various respondent dealers under circumstances detailed below. Metcalf about that time further signified his animosity toward the Union by stating to a group of employees while at work that he didn't "think very damned much of the Union." Metcalf referred to the collective bargaining contracts as outrageous and stated that "anybody who signed a contract like that would be a damned fool." Of 48 employees in the respondent Taube's Idaho Falls warehouse at the time of the February lay-offs all but five were members of the Union and all eleven of those laid off were Union members. The undersigned is convinced that Moore would not have been included in the group except by reason of his pronounced activity as a member of the Union. L. B. Holden testified that he never undertook to ascertain which employees were members of the Union, although he understood practically all of the Taube employees were members. The undersigned is convinced and finds, however, that in view of the nature of Moore's union activity the respondent Taube had knowledge of it.

The undersigned finds that in terminating the employment of Willard Moore on February 5, 1942, the respondent Taube discriminated in regard to his hire and tenure of employment and discouraged membership in a labor organization; that by such discrimination said respondent interfered with, restrained, and coerced its employees in the exercise

of the rights guaranteed them by Section 7 of the Act.

2. The alleged discrimination of the respondent Taube against Hendricksen, Wadsworth, Falk, Goodell, and Crandall

Hendricksen, one of those whose employment the respondent Taube terminated, began work for this respondent in the fall of 1937 and except for the season of 1938-39 worked for Taube each season thereafter until his lay-off in February 1942. During the preceding August, he had conceived the idea of forming a union among the potato workers and had made inquiry as to how this could be done. He helped circulate petitions among those employees signifying their desire to organize and met with Organizer Hansen soon after this individual came to Idaho Falls. Hendricksen attended the Union's organizational meeting on January 16. He spoke at the meeting of January 16, urging the other employees to join. He also joined the Union about that time. He attended the meeting of January 24 at the City Hall and spoke, although the record is silent as to the nature of his remarks at that meeting.

On the afternoon of February 5 Metcalf notified Hendricksen of his lay-off. Hendricksen worked in the same crew with Willard Moore, discussed above, and had seniority over Beck, Teats, Aller, and Mahoney, and although a sorter at the time of his employment termination, was experienced in the types of work being done by these employees. L. B. Holden, in testifying as to why Hendricksen was in-

cluded among those to be laid off, stated that Hendricksen was a little older and slower than the other employees. He testified also that he "understood" in cases where the warehouse "changed from the small packs to hundred pound bags" or the other way Hendricksen would spend too much time counting sacks rather than cleaning the floor and getting ready to pack according to the changed size of the bags. Although Clifford Moore, Hendricksen's crew foreman, described the latter as a steady man who did good work, and Metcalf told him on February 5 that his work had been satisfactory, the undersigned, while viewing Hendricksen's employment termination with suspicion, is not convinced under all the circumstances that the respondent Taube singled him out to be laid off because of his Union membership and activity. His activity on behalf of the Union was somewhat pronounced, but the evidence does not show that the respondent Taube had knowledge of it.<sup>19</sup>

The undersigned finds that in laying off Hendricksen on February 5, 1942, the respondent Taube did not discriminate in regard to his hire and tenure of employment.

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<sup>19</sup>Although Hendricksen spoke at the meeting on January 24, as did Moore, the record does not disclose the content of his remarks. When testifying at the hearing Hendricksen was asked what he said on that occasion, and he stated that he could not remember. It is therefore not clear whether the remarks he made on that occasion revealed that he was a supporter of the Union.

Wadsworth began working regularly for the respondent Taube in the fall of 1938. About the second season of his employment Wadsworth was foreman of a country crew. Thereafter until his employment termination on February 5, 1942, he worked most of the time in the warehouse as a sorter and grader. During the 1941-42 season he was head grader on one of the crews operating in the warehouse. Wadsworth attended the organizational meeting of the Union on January 16 and at that time signed an application for membership. He thereafter talked in favor of the Union to other employees with whom he worked. On February 5 only one sorter was operating in the respondent Taube's warehouse. That was the machine on which Wadsworth was head grader. At the close of work that day Metcalf told Wadsworth he was on the list of those to be laid off. Since Wadsworth began to work regularly for this respondent he had never previous to this occasion been laid off before the end of the season. After Wadsworth's lay-off Pete Schultz<sup>20</sup> a head grader of less experience than Wadsworth, continued working. Schultz, however, was also a member of the Union. Moreover, there is no evidence to show that the respondent had knowledge that Wadsworth was more active in the Union than Schultz. The explanation given by the respondent Taube for Wadsworth's lay-off was in L. B. Holden's testimony that growers sometimes complained that Wadsworth unnecessarily clipped

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<sup>20</sup>Erroneously mentioned in the transcript as Pete Schuetz.



off the ends of potatoes and that he always verified the correctness of his pay check. Although Wadsworth's testimony shows that none of his superiors had ever considered these matters of sufficient importance to discuss them with him prior to his employment termination, the undersigned is not convinced that Union affiliation and activity rather than the reasons given by this respondent were the real causes of Wadsworth's employment termination.

The undersigned finds that in laying off Wadsworth on February 5, 1942, the respondent Taube did not discriminate in regard to his hire and tenure of employment.

Falk<sup>21</sup> began work for the respondent Taube in the fall of 1936. He worked most of the time as a jigger and was so employed at the time of the February 1942 lay-offs. Falk was one of the employees who assisted Hendricksen circulate the petitions mentioned above among employees interested in forming a labor organization. He joined the Union. He also attended and spoke at the Union organizational meeting on January 16. He assisted Organizer Hansen distribute pamphlets among the potato workers. Falk was selected by the Union as a member of a committee to prepare the proposed contracts mentioned above for presentation to the respondent dealers. He attended the meeting at the City Hall on January 24. Falk was one of those laid off on February 5. Holden testified that Falk

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<sup>21</sup>Although this employee was not present to testify at the hearing, the facts as detailed below about his case were elicited from other witnesses.

was laid off because, among other reasons, he used intoxicants. He related no specific instances of Falk's using intoxicants and testified on cross-examination that his knowledge of the subject was limited to hearsay. Holden testified also that Falk was slower and older than some of the other employees.<sup>22</sup> Aller, mentioned above, another jigger of less experience than Falk, was not included among those laid off. Aller, however, was also a member of the Union and the evidence does not show that the respondent Taube knew Falk's union activity to be more pronounced than that of Aller.

Although Wadsworth who had on occasions acted as country crew foreman over Falk, testified that Falk's work was satisfactory,<sup>23</sup> and Falk's work had apparently never been criticized before his lay-off, the undersigned is not convinced under all the circumstances that Falk's employment was terminated for union membership and activity.

The undersigned finds that in terminating the employment of Falk on February 5, 1942, the respondent Taube did not discriminate in regard to his hire and tenure of employment.

Goodell, a carloader in the respondent Taube's

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<sup>22</sup>Holden's explanation of this reason for Falk's lay-off was as follows: "The only thing I recall is, —would be his ability to handle the front end of the machine, and also he was very slow in helping clean up, and things like that, around the machine."

<sup>23</sup>Willard Moore, who at times had worked with Falk, also testified that he regarded Falk as a good worker.



warehouse, had worked for this respondent since 1937. He attended and spoke at the Union's organizational meeting on January 16, and attended the meeting at the City Hall on January 24. He also helped distribute Union literature. He was absent from Idaho Falls and did not appear as a witness at the hearing, and evidence as to some of the circumstances surrounding his lay-off is somewhat meager. Holden testified Metcalf had reported to him that Goodell did not follow instructions in loading cars and was laid off for that reason. The evidence fails to show that the respondent Taube had knowledge of Goodell's Union activity. Nor does it show that he was experienced at other types of work than that of carloader or that any carloaders employed by this respondent a shorter period of time than Goodell were retained on the payroll after his lay-off. On the basis of the evidence the undersigned is not convinced that his lay-off was discriminatory.

The undersigned finds that in laying off Goodell on February 5, 1942, the respondent Taube did not discriminate in regard to his hire and tenure of employment.

Crandall, a sack sewer, had worked for the respondent Taube about three seasons at the time of his lay-off. He joined the Union, advocated it to other employees at the time it was organizing them, attended the Union meeting on January 16, and was one of those selected to attend the meeting on January 24. Crandall, like Goodell, did not appear as a witness at the hearing. Holden indicated that

Crandall was laid off because he did not "get along" with the other employees and growers. In support of this contention Holden referred to a conversation between himself and another dealer about some "trouble" the latter had with Crandall. The respondent Taube also elicited some testimony from other witnesses, apparently intended to show that Crandall before his lay-off had some difficulty with a farmer named Hanson while the crew of which Crandall was a member was working at Hanson's farm. Although this evidence regarding the respondent Taube's reasons for laying off Crandall is somewhat unsatisfactory and testimony adduced by the Board showed that the "argument" between Crandall and Hanson may not have been as serious as this respondent contended, the undersigned is not convinced that he was discriminatorily laid off. Although this employee was somewhat active on behalf of the Union, the evidence fails to show that the respondent Taube had knowledge of this activity. The undersigned finds that in laying off Crandall on February 5, 1942, the respondent Taube did not discriminate in regard to his hire and tenure of employment.

3. The discrimination of the respondent  
Potato Growers against Rash

The complaint alleges that Rash was discriminatorily demoted and forced to quit his position or discharged on February 24, 1942. Rash began work for the Potato Growers in 1938. He did not return to work during the 1939-40 season, but returned in

the fall of 1940 and worked until the date of the alleged discrimination. During his first season of employment Rash did sorting and miscellaneous work in the Idaho Falls warehouse. During the 1940-41 season he worked mostly on sorting crews both in the warehouse and in the country. At the close of the season in 1941, Manager Hansen sent for Rash and told him in the former's office that he was grateful for the work done by Rash during the season and he hoped Rash would return the following season as he would need him more at that time. In September 1941 Rash returned to work. It was the practice of the respondent Potato Growers to ship potatoes in bags known as brand bags and to use field bags, or dump bags, in the country as a temporary means of packing potatoes that had to be "re-run" in the warehouse. Soon after Rash began his employment in September 1941 Foreman assigned him the work of looking after these bags. This work did not require all his time, however, and when he was not busy looking after the bags Rash did other work such as helping the car-loader and packing bags and boxes of potatoes. Part of the time Rash was under the direct supervision of Foreman and at other times Lester Long, a foreman in charge of certain packing work in the warehouse, supervised his work.

Rash attended the Union's organizational meeting on January 16 and immediately became active on its behalf. Foreman's interrogation of Rash soon thereafter about "this union business" and his statement to Rash that some of the dealers had said he

was "the instigator of the whole business" has been detailed above. Foreman thereafter told Rash to attend the meeting at the City Hall on January 24 as detailed above. Rash was also elected a member of the Union's contract committee.

Between February 10 and 16, 1942, Owen sent separate letters to the various respondent dealers in which he requested meetings on behalf of the Union with these respondents for the purpose of negotiating collective bargaining contracts. A copy of a proposed contract was enclosed in each of these letters. The letter to the respondent Potato Growers and a copy of the proposed contract was sent to it on or about February 13. Soon after receipt of this letter and the proposed contract Manager Hansen called a meeting at this respondent's Idaho Falls warehouse of all employees at both its Idaho Falls and Shelley operations. Both Hansen and Fred Foreman, the supervisor of the Idaho Falls warehouse employees, attended this meeting. Hansen spoke, suggesting to the employees that they would "get lots further lots quicker" by forming a labor organization of their own than by belonging to the Union. Rash stated in reply to Hansen that he did not think an organization of their own would give them as much power or support as affiliation with an international organization. Hansen stated, however, that he did not believe the employees would need such affiliation and said that if they would take up their problems with him and the Board of Directors he believed they could get whatever they wanted. He suggested that they take up their prob-

lems through a grievance committee. An election by written ballot was then held for members of such a committee in the presence of Hansen and Foreman. Rash and two other employees were elected to this committee, Rash being elected its chairman by receiving the most votes.

Thereafter on February 24, Foreman entered the "sack room" where Rash was at work and, although that date was not the end of a pay period, gave Rash his pay. Foreman said to Rash on this occasion, "Well, I guess that is all of it . . . They have decided to discontinue your job. . . . The dumpers will put the sacks into the sack room and the truck drivers will take them out to the country crews."<sup>24</sup> Foreman told Rash that the latter might be able to get work on a country crew. Rash protested that if he did so he would be unable to do scooping.

Soon after these events Manager Hansen told Organizer Hansen that Rash was not discharged, but was temporarily laid off and he would like to talk to Rash. Rash then called on Manager Hansen when Hansen was attending a meeting of the Traffic Association at a hotel in Idaho Falls. Hansen said to Rash on that occasion that he thought Rash was misled by the Union, but that he did not discharge him for union activities. Hansen said he

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<sup>24</sup>It is noteworthy that Manager Hansen himself had created the position of looking after the sacks before Rash was assigned to it. It is clear as discussed below, that the position was not permanently abolished at the time of Rash's employment termination.



would take up with the Potato Growers' board of directors the matter of putting Rash back to work in the warehouse and would let Rash know later. Hansen did not, however, offer Rash a position.

After Rash's employment termination Victor Mussman, a warehouse employee, was assigned to the work of handling the sacks. Mussman had begun work for the respondent Potato Growers only the preceding fall. Joe Schofield, another warehouse employee, at the same time was assigned to help look after the sacks. After about 2 days Lester J. Long, a foreman in the warehouse, was told by Foreman to take over the sack job, as the sacks were getting into such a state of confusion from improper handling that there might be trouble. Long accordingly transferred from other work in the warehouse to that of handling the sacks. Long still performs this work. The work consumes about two-thirds of his time.

Late in February or early in March after Rash's employment termination Manager Hansen called a meeting of the respondent Potato Growers' employees in the Idaho Falls warehouse for discussion of whether it should allow the dealer O'Neill to use part of the Potato Growers' warehouse for carrying on certain operations.<sup>25</sup> Rash asked Hansen if he should attend this meeting as chairman of the grievance committee. Hansen told Rash there was

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<sup>25</sup>There had been a fire at the O'Neil warehouse and the discussion was whether that dealer should be given use of part of the Potato Growers' warehouse during the emergency.



no need of his presence, but that it would be all right if he wished to attend. Rash attended the meeting and asked Hansen before its conclusion whether he was discharged. Hansen testified that Rash indicated on this occasion after inquiring as to his status that there were certain jobs he would not take; that Hansen asked if Rash thought himself "better than any of these other boys," and indicated the necessity of working with reduced force; that Rash then said, "I feel sorry for you, in fact, I feel so sorry I think I will pass the hat right now to get some money to help you out;" and that after this remark Hansen told Rash that in view of his attitude he had better look for other work. Rash did not deny this testimony by Hansen. The undersigned credits it.

As Rash's employment had already been terminated at the time of the remark about "passing the hat" for Hansen's benefit, it is obvious that he was not discharged for having made this remark. Hansen stated on cross examination an inability to recollect ever having offered Rash any specific job after his employment termination. Ernest Norell, a foreman of one of the respondent Potato Growers' country crews, testified that he told Rash after his lay-off that the latter could work on Norell's country crew and that Rash could have had work on the crew "if he wanted to scoop." Rash denied that Norell offered him a job. In any event Foreman, who was Norell's superior, told Norell about that time to have Rash do "scooping or something" if he went on the crew. Whether Norell offered Rash a

job on the latter's country crew is not free from doubt. It is clear, however, that if he did so the offer was confined to a scooping job.

Hansen testified that before Rash's employment termination he told Foreman to attempt, on account of decreased business, to reduce the pay roll and combine operations. He testified that he suggested Long as being able to do Rash's work.

The undersigned is impressed by the fact, however, that there were no other lay-offs of the respondent Potato Growers' employees on February 24, 1942. This fact and the transfer of Long about two days later to Rash's position, indicates a desire by this respondent to sever Rash from its employment rather than to eliminate his position and "cut down" its force. Foreman's instructions to Norell to have Rash do scooping work indicates a similar desire. The evidence shows that scooping was a "heavy job" and required "bending" for substantially all the time that an employee was so engaged. Moreover, since scooping paid 5 cents an hour less than Rash's former position, which was still continued as part of the operations of the respondent Potato Growers, Rash was not offered substantially equivalent employment.

Hansen testified that Foreman may have held a different attitude toward Rash than himself because about the time of Rash's employment termination there was some confusion in packing for shipment some potatoes of a customer named Wood. This customer furnished his own bags for the pack-

ing of his potatoes. According to Hansen, Rash failed to have these bags available to be filled with potatoes at the time loading of the car for shipment was begun. As a result, part of the potatoes had to be unloaded and re-packed for shipment. Hansen testified that at the time he blamed Foreman and Foreman blamed Rash for this mistake. Foreman did not mention the above incident at the time he gave Rash his pay check on February 24. Since he did not testify at the hearing there is no evidence directly to indicate that he wanted to terminate Rash's employment because of the carloading incident mentioned by Hensen. Any such conclusion would be speculation. Moreover, at the time of Rash's employment termination on February 24 the reason given by Foreman for such action was that Rash's position was being eliminated.

Under all the circumstances the undersigned finds that on February 24, 1942, the respondent Potato Growers discriminated in regard to the hire and tenure of employment of Rash and discouraged membership in a labor organization; that by such discrimination said respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed them by Section 7 of the Act.

C. The refusals to bargain; other interference, restraint, and coercion

1. The arrangement of the respondent and other dealers to handle their labor problems through the Traffic Association.

Meanwhile, after the letters and proposed con-

tracts mentioned above had been mailed to the respondent and other dealers on behalf of the Union, Manager Hansen and Eugene Trask, a director of the Potato Growers, asked Eli Weston, an attorney at Boise, Idaho, to come to Idaho Falls in order to discuss with the potato dealers their labor problems. On February 16, 1942, Attorney Weston attended a meeting sponsored by the Traffic Association in Idaho Falls. The respondents and other dealers who were present, voted to retain Weston and to contribute to a fund for his payment. The voted contributions were made accordingly, most of them being deposited with funds of the Traffic Association and paid Weston by De Long, its executive secretary.<sup>26</sup>

## 2. The appropriate units

The complaint alleges that all employees of the respondent Potato Growers on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Taube on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Wilson on his cellar and warehouse crews at Firth, and of the respondent Stuart on his cellar and warehouse crews at Shelley, and of all the other respondent dealers on their respective cellar and

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<sup>26</sup>Although a stipulation made at the hearing recited that the contributions were thus paid through the Traffic Association, the stipulation reserved to the parties the right to introduce evidence as to Traffic Association matters. There was testimony that the respondent Taube paid Weston its portion of the fee direct.

warehouse crews at Idaho Falls exclusive of office employees and supervisory employees of higher rank than cellar crew foreman, constitute, in the case of each of said respondents, a unit appropriate for the Purposes of collective bargaining within the meaning of Section 9(b) of the Act. The answer, as amended at the hearing, admits the appropriateness of the units as alleged except with respect to the respondents Potato Growers and Taube.

The Idaho Falls and Shelley warehouses of each of these respondents are under separate supervisors. The supervisor of each of these warehouses, however, is responsible to a manager who has an office in the plant at Idaho Falls, which is about 8 miles from Shelley. The Shelley foreman of each, as a practice telephones "his" manager in Idaho Falls repeatedly every day about business matters at the Shelley warehouse. The general nature of the work performed by the warehouse and cellar crews at Idaho Falls and Shelley is the same. Occasionally, employees are exchanged between the warehouses of each of these respondents in the two places. That Manager Hansen viewed the employees of the respondent Potato Growers at Idaho Falls and Shelley as one group with common interests as to matters of labor organization is shown as set forth above by the fact that in February 1942, he called to one meeting employees of both the Idaho Falls and Shelley warehouses of that respondent at which he urged them to start a union of their own. The Union has members in both the



Idaho Falls and Shelley warehouses of these respondents.<sup>27</sup> It is the only labor organization, moreover, which has members among the employees in any of these warehouses.

The undersigned finds that at all times material herein the employees of the respondent Potato Growers on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Taube on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Wilson on his cellar and warehouse crews at Firth, and of the respondent Stuart on his cellar and warehouse crews at Shelley, and of all the other respondent dealers on their respective cellar and warehouse crews at Idaho Falls, exclusive of office employees and supervisory employees of higher rank than cellar crew foreman, constitute and constituted in the case of each of said respondents a unit appropriate for the purposes of collective bargaining, and that said units insure to the employees of each of said respondents the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

3. Representation by the Union of a majority  
in the appropriate units.

It was stipulated at the hearing that the Union had been designated as representative for the purposes of collective bargaining of a majority of the

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<sup>27</sup>The Union has as members a majority of the employees in the combined Idaho Falls and Shelley plants of each of these employees, but not in the Shelley plants alone.



employees on pay rolls of the respective respondent dealers in or about February 1942<sup>28</sup> in each of the units found to be appropriate.

The undersigned finds that in or about February 1942, and at all times material thereafter, the Union was designated and selected by a majority of the employees of the respondent dealers in the units found to be appropriate and pursuant to Section 9 (a) of the Act, was at that time and at all times material thereafter, and now is the exclusive representative of the employees in each of said units for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

#### 4. The refusals to bargain

Important in the vicinity of Idaho Falls is the Grange, a well known farmers' organization. The Grange members and other farmers were concerned about the attempt to unionize the potato workers because, they contended, labor costs are ultimately paid by the farmer. Soon after the proposed contracts were sent to the respondent and various other dealers on behalf of the Union as stated above, a meeting of so-called local Grange masters and others took place in a hotel in Idaho Falls. Manager Hansen and Director Trask of the respondent Potato Growers attended this meeting.

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<sup>28</sup>The pay rolls referred to in the stipulation were as of the approximate dates the proposed contracts were sent the various respondent dealers. They covered various periods during the month of February.

Attorney Weston was also present. It was agreed on this occasion to hold "a general growers meeting" in order to explain the proposed Union contracts and the developments with respect to unionization of the potato workers. Such a meeting took place on February 23, 1942, in York Grange Hall, a meeting place near Idaho Falls. Weston was present and explained the nature of the contracts presented the dealers. Some statistics prepared by Manager Hansen regarding how the Union contracts would increase labor costs were read at the meeting. The group voted a resolution which recited, among other things, that those present at the meeting protested the entering into any contracts between dealers and the Union unless the farmers in the vicinity were allowed to participate in the negotiations; also that the farmers should be represented and allowed to present evidence in case the matter went before the Board. Those at the meeting further passed a motion unanimously "that all growers and producers in this area refuse to ship or send potatoes or produce to any packer or shipper who signs the contracts discussed at the meeting."

Several other similar meetings of the Grange and other organizations were held in the vicinity soon after the York Grange meeting. Manager Hansen testified that he attended and spoke at several of these meetings and that he attempted at such times to organize the growers so that they could "put themselves in position to properly represent their interests in the case of cases where any costs of

wages were under consideration that would affect the prices they receive for their potatoes." Hansen's activities encouraged farmer opposition to the Union. On March 2, 1942, Organizer Hansen, Owen, and others representing the Union, met with Weston, representing the respondent dealers. Weston mentioned the York Grange meeting and the other meetings being held by the Grange as showing the attitude of the farmers. He stated that in order to negotiate, it would be necessary for the Union "to recognize" the Grange. A similar meeting was again held the next day, Manager Hansen also attending this meeting. Weston and Manager Hansen reiterated the position taken by Weston the preceding day. Manager Hansen also said that he did not see why the Union undertook to organize the community's potato workers, as the community was devoted to agriculture and was getting along "very good" without the Union. Owen stated at this meeting that he would like to talk to the farmers, as he understood they had an erroneous idea of the Union's contract demands. Weston and Manager Hansen stated that they thought they could arrange such a meeting and the former agreed to invite those who were to attend.

On March 7, 1942, the proposed meeting was held, attended by 60 to 70 persons. Weston presided and several of the respondent dealers were represented at this meeting. A number of the employees were there. Owen spoke, undertaking to state the purposes of the Union and the nature of the proposed contracts. Several growers also spoke at this meet-

ing. J. E. O'Neil spoke, stating to Owen in the presence of the group, " \* \* \* what in the Hell have you ever done for your country; why in the Hell don't you get a gun on your back instead of causing trouble on others, \* \* \*" Manager Hansen also spoke, stating that the Potato Growers' sorting costs had risen from eight to fifteen cents a hundred because of lack of interest of his employees since union activity began. The meeting finally broke up during an argument between Owen and O'Neil. The farmers and dealers, however, remained for further discussion after the meeting.

On Sunday, March 8, 1942, Weston wrote a letter to Owen, stating that the dealers<sup>29</sup> were perhaps in a worse predicament than before the meeting of March 7. He stated that he planned to attend the regular meeting of the dealers<sup>30</sup> the next day, however, when a decision would be made as to "the farmer matter." Weston stated that he would advise Owen as to progress made at that meeting. Meanwhile on March 4, Owen wrote the respondent Wilson reminding him of the proposed contract previously mailed, stating that under the Act it was a duty to negotiate within a reasonable time with a union which represented 51 per cent or more employees, and asking him his position with refer-

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<sup>29</sup>In his letter Weston referred to the group as "the potato packers." Whether he intended to include in the category other dealers besides the respondent dealers is not clear.

<sup>30</sup>Apparently Weston had reference to the Traffic Association's weekly meeting.

ence to negotiating. Wilson replied that the dealers as a group had turned the matter over to Weston and he understood that Weston was in communication with Organizer Hansen. On March 10, Owen sent letters like that sent Wilson to the other respondent dealers. On Monday, March 16, Weston wrote Owen that he had been unable to attend the dealers' meeting<sup>31</sup> that day in Idaho Falls, although he had expected to do so. Weston stated that he favored considering the various contracts individually and that, although he had understood that upon failure of Owen to convince the farmers at the "last meeting" the dealers were to be for the time relieved of negotiating, he would communicate with Owen as soon as he heard from the dealers about further negotiations. Weston indicated that there were three or four dealers with respect to whom he questioned the Union's majority, and he would later submit the names of those dealers to Owen.<sup>32</sup> No such names were ever submitted.

On March 18, Organizer Hansen and Owen had another meeting with Weston. Weston suggested that since he was located at Boise, Idaho, negotiations be conducted by mail. Hansen and Owen refused to consider favorably this suggestion. Weston again questioned whether in the case of certain

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<sup>31</sup>See footnote 30, *supra*.

<sup>32</sup>The letter named one such dealer, who is not a respondent; it added, "There are three or four others in this same category whose names I do not have. I will send them to you in a day or two. I believe we should eliminate this question first."



dealers the Union had a majority, but did not name any of the respondent dealers. Hansen indicated the Union was willing to submit proof of majority whenever negotiations began. The three discussed the question of the order in which possible negotiations should be conducted, Hansen and Owen urging that they should proceed according to the order in which the contracts had been presented, but Weston urging that the Potato Growers' negotiations should be conducted first. Owen asked if the dealers would consider an election covering the employees of all dealers in the area. Weston replied that he thought not, but that he would discuss the matter with the dealers and advise Owen of the result.

On March 23, Weston wrote Owen from Boise, stating that he had attended a convention of the Traffic Association at Twin Falls, Idaho, the preceding Saturday and had been unsuccessful after the meeting that night in an attempt to call together a quorum of a Committee on labor problems. He stated that he told those to whom he talked about the Union's insistence upon having further negotiations. Weston stated as to the order of negotiations that he believed the dealers' position to be the better one "inasmuch as we should eliminate all questionable cases involving the 51 percent rule before we proceed with the others." He suggested the possibility of getting an "advisory opinion" from the Board about the law with respect to the necessity of "bargaining for the entire industry." Weston stated an intention of seeing Owen on



March 26 or 27 after the meeting with a labor committee of the dealers, but did not communicate with Owen on either of those dates. On March 31, Weston wrote Owen another letter in which he stated that he had been unable to get the labor committee together for a meeting, but that he would be in Idaho Falls again the next day. The letter stated that Weston would discuss matters with the committee<sup>33</sup> and notify Owen "just as soon as we can arrange a meeting." Owen did not hear from Weston the next day, but a few days later received a copy of a letter dated April 3 in which Weston's secretary wrote Manager Hansen that Weston was ill in bed and could not attend the Monday meeting, presumably of the Traffic Association. Also on April 3, Owen wrote a letter to Weston in which he stated that in the meetings held there had been no negotiations in good faith, that he saw no reason for further meetings until the Union was shown that there would be such negotiations. The letter stated that charges of refusal to bargain were being filed with the Board. Owen filed such charges in April.

The 1941-42 potato season ended soon after these charges had been filed and there were no further dealings between representatives of the Union and the respondent dealers respectively until October 5, 1942. On that date Organizer Hansen and Owen

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<sup>33</sup>The letter mentioned "these committees," apparently referring to another committee which represented the employers in some negotiations then also pending as to certain creamery employees.

met Weston who said that there was a possibility some of the dealers could meet with the Union representatives. Weston asked Owen and Hansen if they could prove a majority for the Union. They assured him they could and Owen stated they would claim it as of the date the proposed contracts had been presented. Organizer Hansen about that time also talked to C. R. Holden about the possibility of discussing the situation with some of the dealers. Such a meeting took place on October 7. At this meeting Owen, Organizer Hansen, and International Representative Al May were present for the Union. Manager Hansen of the Potato Growers, L. B. Holden of Taube, C. R. Holden of Holden, A. G. Stanger of the Warehouse Company, De Long of the Traffic Association, and Wilson were present from among the respondents. On this occasion there was discussion of the wages being paid potato workers in the locality, the dealers explaining that labor pirating was causing wage increases. The Union representatives stated that the Union could be of assistance in stopping pirating. There was also discussion about "show-up time" and whether the dealers would be willing to pay employees for time spent in traveling between the warehouses and the cellars. Weston asked the Union representatives why they wanted such a lengthy agreement and Owen replied that it would be possible to write a two paragraph contract which would be satisfactory to the Union. The respondent dealers represented at the meeting inquired whether the Union would accept a wage and other items which the dealers

had agreed to among themselves. They asked the Union representatives to submit the proposal to the Union membership. The proposal was presented to the membership at a meeting on October 9 and the members did not agree to accept the proposed wages because of the disparity in wages that were being paid in the Idaho Falls and Shelley areas.

On October 12 Owen, May, and Organizer Hansen met with Weston. They presented him with a proposed contract. Weston called attention to the length of the contract and said he had understood the Union would be satisfied with a two-paragraph agreement. Owen replied that the document was something on which to start, and "probably could be cut down." Weston raised no other substantial objection to the document except to a closed shop clause, and the Union representatives expressed a willingness to delete or modify it. They also explained their version of how the Union could assist to stop pirating, provided it was given the check-off. The Union representatives stated that the Union could then issue termination slips whenever employees left their employment and prevent pirating by requiring the employees affected to report at the Union's office before receiving other employment. During the meeting of October 12 Weston agreed to submit a counter-proposal to the Union's proposed contract. He never did so. Organizer Hansen suggested that the Union representatives be allowed to meet with the dealers at the next

Traffic Association meeting on Monday, October 19, and those dealers who wished to negotiate a contract with the Union could do so. Hansen and Weston thereafter arranged for such a meeting.

On Saturday before the proposed meeting of October 19 Weston telegraphed Organizer Hansen that De Long was in the hospital and C. P. Holden and Manager Hansen had gone to Washington "on the price ceiling." The Union representatives and the dealers did not meet on October 19. On October 24, Weston wrote a letter to Owen in which he stated that the Union never had proved its majority and that the respondent dealers took the position there should be a certification "as of this date or as of the date of the filing of the Complaint and not as of February, 1942." The letter stated that the respondent dealers did not deem themselves obliged to bargain until proof of majority by certification or otherwise. About the time of sending the letter Weston saw Organizer Hansen, telling Hansen that he was recommending to the respondent dealers that they proceed with the hearing and that he saw no use of further negotiations. About the same time Weston similarly told Owen and May that the respondent dealers "were going to go on through with the hearing," and there was no use of further negotiations, although he believed an agreement could be reached if the hearing was postponed. Owen suggested that it should be possible to negotiate an agreement before the hearing.

Weston replied that he had no time to meet as he would be busy preparing for the hearing.<sup>34</sup>

There have been no further dealings between the Union and the respondents. It should be noted, however, that apart from their dealings with the Union each of the respondent dealers gave wage increases to their employees about the time the Union began to organize the potato workers in January 1942, and further increases thereafter in April or May. All of them except the respondent Friedman, who had not yet resumed operations during the 1942-43 season, also have given wage increases since the opening of this season. The wages now paid as a result of these increases approximate those contained in the proposed contract submitted by the Union on October 12.<sup>35</sup>

That the respondent dealers, who were presented by the Union with proposed collective bargaining contracts in February 1942, were unfriendly toward the Union became manifest soon after the Union's first meeting of the potato workers on January 16.

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<sup>34</sup>The findings regarding the meetings and communications between the respondents and the Union are based on the testimony of Owen and Organizer Hansen.

<sup>35</sup>The proposed Union contract of February 1942 called with some exceptions for a wage rate of 65 and 75 cents per hour respectively for crew members and crew foremen.

The proposed Union contract of October 12 called for a wage rate of 85 cents per hour for male employees except for working foremen and head grader men with respect to whom it called for a wage rate of 90 cents per hour. The increases given by



The meeting of January 24 at the Idaho Falls City Hall, although ostensibly under the sponsorship of farmers in the vicinity, received the cooperation of Manager Hansen, C. R. Holden, L. B. Holden, J. E. O'Neil, and Carl De Long, and pursuant to arrangements made, employees from each of the warehouses involved in this proceeding attended. The express purpose of the meeting was to attempt a solution of the problems affecting these employees by a circumvention of the Union. The remarks of Metcalf as detailed above obviously were also for

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the respondent dealers except to crew foremen and head grader men were as follows:

Name of respondent dealer	Rate at begin- ning of 1941-42 season	Rate paid after increases		
		Jan. or Feb.	Apr. or May	Fall of '42
Potato Growers	45 cents	55	60	80
Wilson	55 "	55	65	85
Taube	50 "	55	65	80
Friedman	50 "	55	60	(not operating)
Warehouse Company	50 "	55	60	80
O'Neil	55 "	55	65	80
Stuart	55 "	55	65	85
Holden	50 "	55	60	80

Each of the respondent dealers, except Friedman who was not operating, gave more than one increase in the fall of '42. The figures given for the fall of '42 represent the cumulative effect of these increases. The rate paid crew foremen by the respondent dealers was in each instance five cents higher than that given in the table above. The Union's proposed contract of October 12 also contained a separate wage demand for female employees, but as the respondent dealers do not presently hire such employees this portion of the proposed contract is not in issue.



the purpose of hindering the Union's efforts. He expressly disparaged the proposed contracts which had been submitted. Likewise the meeting called in February by Manager Hansen of employees in both the Idaho Falls and the Shelley warehouses of the Potato Growers was an attempt by that respondent to handle the situation by circumvention of the Union.

The opposition of the Grange and the farmers toward the Union constitutes no basis of defense for the attitude of opposition by the respondents. Moreover, the expressions of Manager Hansen and J. E. O'Neil at the meeting of March 7, and the activities of Manager Hansen in meetings of the Grange and other organizations were not designed to create understanding between the Union and the farmers, but were calculated to intensify the opposition of the farmers and the Grange to the Union. Thereafter, Weston's failure to meet with Owen on March 26 or 27 after having indicated an intention to do so in his letter of March 23 and his failure to communicate with Owen about April 1, regarding further negotiations as he had stated in his letter of the preceding date, indicate a reluctance to deal with the Union. The unilateral wage increases given the employees about that time and approximating the demands made by the Union further indicate a reluctance to deal with the Union. Weston's letter of October 24, breaking off such negotiations as had taken place during that month, again reveals a desire to avoid dealing with the Union. Of a similar nature were his statements to

Organizer Hansen, Owen and May about that time. The belated demand for proof of majority by certification or otherwise in the letter of October 24 was not a good reason for breaking off negotiations in view of the failure of the respondents at an earlier date to specify, as they had indicated they would do, with respect to which of the respondents the majority question was raised. The additional unilateral wage increases after the opening of the potato season in the fall of 1942, again approximating the Unions demands, and the failure of the respondents at any time to make counter-proposals also indicate an effort to avoid dealing with the Union. Moreover, the sum total of the respondents' conduct reveals an unwillingness to deal with the Union. This was evidenced at the March 2 meeting, at which time the respondents announced that, because of farmer opposition, they could not treat with the Union. Yet the respondents were quiescent to the antagonism of the farmers toward the Union, and several of them affirmatively encouraged it.

The undersigned finds that the respondents Potato Growers, Wilson, Taube, Friedman, Warehouse Company, Stuart and each of them refused to bargain collectively with the Union on or about March 2 and 26 and April 1, 1942, as the representative of their respective employees in the appropriate units in respect to rates of pay, wages, hours of employment and other conditions of employment and have thereby interfered with, restrained, and coerced their employees in the exercise of the rights

guaranteed by Section 7 of the Act. The undersigned further finds that these respondents and also the respondents Holden and O'Neil refused similarly to bargain collectively with the Union on or about October 24, 1942, and thereafter.<sup>36</sup> The undersigned further finds that by such refusal to bargain, by Metcalf's remarks concerning the Union and the proposed collective bargaining contracts submitted by it, by Manager Hansen's statement to Rash that he thought the latter was being misled by the Union, by his speech on March 7, his deprecation of the Union and suggestion that the respondent Potato Growers' employees form a labor organization of their own, his actions and those of Foreman concerning the election of a grievance committee by the employees of respondent Potato Growers, his speeches to the farmers at the Grange and other meetings as detailed above, and by the unilateral wage increases, the respondent dealers have interfered with, restrained, and coerced their employees in the exercise of the rights by Section 7 of the Act.

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<sup>36</sup>J. E. O'Neil, Holden Brother, Inc., and Traffic Association also participated in the acts here considered. The question of the responsibility of Administratrix O'Neil and Holden Brothers, respondents herein, for the acts of J. E. O'Neil and Holden Brothers, respondents herein, for the acts of J. E. O'Neil and Holden Brothers, Inc., respectively, and the responsibility of the respondent Traffic Association is discussed in Section V, *infra*.

- V. Administratrix O'Neil as the successor of J. E. O'Neil; Holden Brothers as the successor of Holden Brothers, Inc.; the participation in and responsibility of the Traffic Association for the unfair labor practices.

As set forth above, J. E. O'Neil died during August 1942 and since that time Administratrix O'Neil, a respondent in this case, has continued to conduct the same business substantially as conducted by J. E. O'Neil during his lifetime. While J. E. O'Neil was conducting the business he participated in the commission of certain unfair labor practices detailed above. He was one of those who, being represented by Weston, refused to bargain on or about March 2 and 26 and April 1, 1942. Moreover, he displayed his animus toward the Union by participating in the plans for and sending employees to the meeting of January 24, and by making a speech derogatory to the Union at the meeting of March 7, 1942. Johnson, his warehouse foreman, also displayed animus toward the Union by his remarks to Sorman in or about January 1942 as set forth above. Administratrix O'Neil, as J. E. O'Neil's business successor, continued the unfair labor practices by the refusal to bargain on or about October 24, 1942, and thereafter. Under the circumstances the undersigned finds that Administratrix O'Neil, respondent herein, as J. E. O'Neil's business successor, is responsible for the unfair labor practices committed by her as detailed above since her appointment as administratrix and it will be recommended that by reason thereof and the

unfair labor practices which her predecessor J. E. O'Neil committed as detailed above during his lifetime, she take certain action which the undersigned finds will effectuate the policies of the Act, as discussed in "The Remedy" below.

Holden, a partnership, similarly is a business successor to the Idaho operations formerly conducted by Holden Brothers, Inc. The partnership is conducting the same type of business, using the same property, and employing a substantial number of the same employees.<sup>37</sup> Both the corporation before dissolution and the successor partnership since its formation have participated in unfair labor practices. The corporation by the activities of C. R. Holden, participated in planning and sending employees to the meeting of January 24. It also, being represented by Weston, participated in the refusal to bargain on or about March 2 and 26 and April 1, 1942. The partnership resumed these unfair labor practices by the refusal to bargain on or about October 24, 1942, and thereafter. The undersigned finds that the respondent Holden is responsible for the unfair labor practices committed by it since its organization as a partnership, and it will be recommended that by reason thereof and the unfair labor practices committed by Holden Brothers, Inc., its business predecessor before its dissolution, the respondent Holden take certain action which the

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<sup>37</sup>There was considerable change in the personnel employed by all of the respondent dealers at the opening of the present season. There is nothing to indicate but what the employee situation in this regard was the same with this respondent as with the other respondent dealers.



undersigned finds will effectuate the policies of the Act as discussed in "The Remedy" below.

The Traffic Association through its Monday meetings constituted a forum in which the respondent dealers discussed their labor and other problems. De Long more than any other person presided at these meetings. It was at one of these meetings that plans were made to retain Weston to represent the respondent dealers in matters involving the Union. The Traffic Association acted as an intermediary through which a substantial number of the dealers paid Weston's fee for this service. De Long also was present with representatives of some of the respondent dealers in planning the meeting of January 24. He participated in the meeting of October 7, 1942, and his illness was given as one reason for not holding the planned meeting between representatives of the Union and the dealers on October 19, 1942. By the foregoing and other conduct the Traffic Association acted in the interest of the respondent dealers. It was a participant in and responsible for refusing to bargain collectively and certain acts of interference, restraint and coercion. The undersigned finds that the Traffic Association, acting in the interest of the respondent dealers, is an employer within the meaning of the Act.<sup>38</sup> Acting as agent and in the interest of the respondent dealers, respondent Traffic Association refused to bargain

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<sup>38</sup>Section 2 (2) of the Act provides: "The term employer includes any person acting in the interest of an employer, directly or indirectly, . . ."



collectively with the Union as the statutory representative of the employees in the appropriate units set forth above in respect to rates of pay, wages, hours of employment and other conditions of employment. The undersigned further finds that by such refusal to bargain collectively and other conduct detailed above the Traffic Association interfered with, restrained, and coerced the employees of the respective respondent dealers in the exercise of rights guaranteed them by the Act.

#### VI. The Effect of the Unfair Labor

##### Practices Upon Commerce

The activities of the respondents set forth in Sections IV and V above, occurring in connection with the operations of the respondents described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### VII. The remedy

It is essential to an effectuation of the purposes and policies of the Act that the respondents, and each of them, cease and desist from the unfair labor practices in which they have engaged and for which they are responsible, and, as a means of avoiding the consequences of such unfair labor practices, that they take certain affirmative action more particularly described below.

The undersigned has found that the respondents, and each of them, interfered with, restrained, and coerced employees of the respective respondents

in the exercise of the rights guaranteed them by the Act, or were responsible for such interference, restraint, and coercion. It is plain that the respondents, and each of them, must cease and desist from interfering with, restraining and coercing these employees in the exercise of such rights and the undersigned will so recommend. Moreover, since as the undersigned has found, the Traffic Association has engaged in and is responsible for certain unfair labor practices, the undersigned will for purposes of more completely and effectively remedying the situation recommend that the Traffic Association cease and desist from the unfair labor practices in which it has participated, or for which it is responsible.

Since the undersigned has found that the respondent Taube terminated the employment of and refused to reinstate Willard Moore, and the respondent Potato Growers terminated the employment of and refused to reinstate Milo Rash, because of their membership and activity on behalf of the Union, the undersigned will recommend that these respondents cease and desist from such discrimination. Moore testified that he has other employment and does not desire reinstatement. Under the circumstances the undersigned will not recommend that the respondent Taube offer Moore reinstatement but will recommend that it make him whole for any loss of pay he has suffered by reason of this respondent's discrimination against him, by payment to him of a sum of money equal to the amount he would normally have earned as wages

from the date of the discrimination against him to the date he obtained his present employment less his net earnings during such period.<sup>39</sup> Rash, who no longer resides in Idaho Falls, indicated that he would not consider reinstatement because of civil service employment which his wife presently has. The undersigned, therefore, will not recommend that the respondent Potato Growers offer Rash reinstatement but will recommend that it make him whole for any loss of pay he may have suffered by reason of this respondent's discrimination against him, by payment to him of a sum of money equal to the amount he would normally have earned as wages from the date of discrimination against him to the date his wife obtained her present civil service employment, less his net earnings during such period.

The undersigned has also found that each of the respondent dealers and the respondent Traffic Association as agent for and acting in their interest

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<sup>39</sup>By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for the respondent's unlawful discrimination against him and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N.L.R.B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N.L.R.B.* 311 U.S. 7.

refused to bargain collectively with the Union. Accordingly the undersigned will recommend that the respondents, and each of them, cease and desist from such unfair labor practices, and in effectuation of the policies of the Act the respondent dealers and the respondent Traffic Association when acting as agent for and in their interest bargain collectively, upon request, with the Union, as the exclusive bargaining representative of the employees within the appropriate units.

Upon the basis of the above findings of fact, and upon the entire record in the case, the undersigned makes the following:

### CONCLUSIONS OF LAW

1. Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2 (5) of the Act.

2. Idaho Traffic Association was and is an employer of the employees involved herein within the meaning of Section 2 (2) of the Act.

3. At all times material herein the employees of the respondent Potato Growers, on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Taube on its cellar and warehouse crews at Idaho Falls and Shelley, of the respondent Wilson on his cellar and warehouse crews at Firth, and of the respondent Stuart on his cellar and warehouse crews at Shelley, and of all the other respondent dealers on their cellar and warehouse crews at Idaho Falls exclusive of office employees

and supervisory employees of higher rank than cellar crew foreman constitute and constituted in the case of each of said respondents a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

4. In or about February 1942 and at all times thereafter the Union has been the exclusive representative of the employees in such units for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

5. By refusing on or about March 2 and 26 and April 1, 1942, and on or about October 24, 1942, and thereafter to bargain collectively with the Union, as the exclusive representative of the employees in such units, the respondent Idaho Traffic Association as agent for and in the interest of the other respondents, and the other respondents, and each of them, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (5) of the Act.

6. The respondent Taube by discriminating in regard to the hire and tenure of employment of Willard Moore, and the respondent Potato Growers by discriminating in regard to the hire and tenure of employment of Milo Rash, thereby discouraging membership in the Union, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (3) of the Act.

7. By interfering with, restraining, and coercing the employees of the respondent dealers in the exercise of the rights guaranteed in Section 7 of the Act, the respondents, and each of them, have



engaged in and are engaging in, unfair labor practices within the meaning of Section 8 (1) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

9. The respondent Taube has not engaged in unfair labor practices within the meaning of Section 8 (3) of the Act respecting Jack C. Hendricksen, C. A. Falk, Clency L. Wadsworth, Mervin Crandall and Harold Goodell.

### RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that:

1. Each of the respondents, Idaho Potato Growers, Inc.; W. P. Wilson; L. S. Taube, Ted Taube, and L. B. Holden, co-partners, doing business as L. S. Taube & Company; Meyer Friedman and Arthur E. Friedman, co-partners, doing business as S. Friedman & Sons; Idaho Falls Warehouse Company; Rowenah O'Neil, administratrix of the Estate of J. E. O'Neil, deceased; A. G. Stuart; C. R. Holden and L. L. Holden, co-partners, doing business as Holden Brothers; and Idaho Traffic Association, and their respective officers, partners, agents, successors, and assigns shall:

a. Cease and desist from:

(1) Refusing to bargain *collective* with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of



Labor, as the exclusive representative of their respective employees in the units described above, except that the Idaho Traffic Association shall so cease and desist when acting as agent for and in the interest of the other respondents;

(2) In any other manner interfering with, restraining, or coercing the employees of the respondent dealers in the exercise of their rights of self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

b. Take the following affirmative action, which the undersigned finds will effectuate the policies of the Act:

(1) Upon request bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of all their respective employees in each of the units described above, except that the Idaho Traffic Association shall take such action when acting as agent for and in the interest of the other respondents;

(2) Post immediately in conspicuous places in the respective warehouses of the respondent dealers in Idaho Falls and Shelley, and in the place of business of the Idaho Traffic Association in Idaho Falls, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to employees of the respondent dealers, stat-

ing that the respondents, and each of them, will not engage in the conduct from which it is recommended that they, and each of them, cease and desist in paragraphs 1 a,(1) and (2) of these recommendations; and that they and each of them will take the affirmative action set forth in paragraph 1 b,(1) of these recommendations; and said employees of the respondent dealers are free to become or remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or any other labor organization and that the respondents will not discriminate against any employee because of membership or activity in such labor organization;

(3) Notify the Regional Director for the Nineteenth Region in writing within ten (10) days from the date of receiving this Intermediate Report what steps the respondents, and each of them have taken to comply herewith.

2. The respondents, L. S. Taube, Ted Taube, and L. B. Holden, co-partners, doing business as L. S. Taube & Company, their agents, successors and assigns, shall, in addition:

a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or any other labor organization of its employees, by discriminating in regard to hire or tenure of employment, or any term or condition of employment.

b. Take the following affirmative action, which the undersigned finds will effectuate the policies of the Act:

(1) Make whole Willard Moore for any loss of pay he may have suffered by reason of this respondent's discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages during the period from the date of such discrimination to the date he obtained his present employment less his net earnings during such period;

(2) Post immediately in conspicuous places in their warehouses at Idaho Falls and Shelley, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to their employees stating that they will not engage in the conduct from which it is recommended that they cease and desist in paragraph 2 a of these recommendations and that they will take the affirmative action set forth in paragraph 2 b (1), of these recommendations;

(3) Notify the Regional Director for the Nineteenth Region in writing within ten (10) days from the date of receiving this Intermediate Report what steps this respondent has taken to comply with recommendations 2 a and b (1) and (2).

3. The respondent Idaho Potato Growers, Inc., its officers, agents, successors, and assigns shall, in addition:

a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or any other labor organization of its employees, by discriminating in regard to hire or tenure of employment, or any term of condition of employment.

b. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act:

(1) Make whole Milo Rash for any loss of pay he may have suffered by reason of this respondent's discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages during the period from the date of the discrimination against him to the date his wife obtained her present civil service employment, less his net earnings during such period;

(2) Post immediately in conspicuous places in its warehouses at Idaho Falls and Shelley, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating that it will not engage in the conduct from which it is recommended that it cease and desist in paragraph 3 a of these recommendations and that it will take the affirmative action set forth in paragraph 3 b (1) of these recommendations;

(3) Notify the Regional Director for the Nineteenth Region in writing within ten (10) days from the date of receiving this Intermediate Report what steps this respondent has taken to comply with recommendations 3 a and 3 b (1) and (2).

It is further recommended that the complaint insofar as it alleges that the respondent Taube engaged in unfair labor practices within the meaning of Section 8 (3) of the Act, with respect to Jack C. Hendrickson, C. A. Falk, Clency L. Wadsworth, Mervin Crandall and Harold Goodell, be dismissed.

It is further recommended that unless on or be-

fore ten (10) days from the receipt of this Intermediate Report, the respondents notify said Regional Director in writing that they will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondents to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board—Series 2—as amended, effective October 28, 1942, any party may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Shoreham Building, Washington, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days after the date of the order transferring the case to the Board.

WILLIAM B. BARTON,  
Trial Examiner.

Dated: January 9, 1943.



In the United States Circuit Court of Appeals  
for the Ninth Circuit

10490

IDAHO POTATO GROWERS, INC., W. P. WILSON, L. S. TAUBE, TED TAUBE, and L. B. HOLDEN, CO-PARTNERS, d/b/a L. S. TAUBE & COMPANY, MEYER FRIEDMAN and ARTHUR E. FRIEDMAN, CO-PARTNERS, d/b/a S. FRIEDMAN & SONS, IDAHO FALLS WAREHOUSE COMPANY, ROWENA O'NEILL, ADMINISTRATRIX OF THE ESTATE OF J. E. O'NEILL, DECEASED, A. G. STUART, C. R. HOLDEN and L. L. HOLDEN, CO-PARTNERS, d/b/a HOLDEN BROTHERS, and IDAHO TRAFFIC ASSOCIATION,

Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,  
Respondent.

### PETITION FOR REVIEW

To the Honorable, The Judges of the United States  
Circuit Court of Appeals for the Ninth Circuit:

The petitioners above named respectfully show and allege:

I. That your petitioners, with the exception of the Idaho Traffic Association are, and at all times hereinafter mentioned have been, Potato Packers, packing and shipping potatoes grown by them-



selves and others, with the principle places of business of the Idaho Potato Growers, Inc., L. S. Taube & Company, S. Friedman & Sons, Idaho Falls Warehouse Company, Rowenah O'Neill, Holden Brothers, in the City of Idaho Falls; W. P. Wilson in the village of Firth, and A. G. Stuart in the village of Shelley, all in the County of Bonneville and State of Idaho; that the Idaho Traffic Association is a trade association with its principle office in the City of Idaho Falls, County of Bonneville, State of Idaho; and that all the petitioners above named have been transacting business in the State of Idaho and within the jurisdiction of the United States Circuit Court of Appeals for the Ninth Circuit.

II. That heretofore, on or about the 14th day of October, 1942, upon charges filed by the Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, of the American Federation of Labor (hereinafter called the Union), the respondent, National Labor Relations Board (hereinafter sometimes referred to as the Board), issued a consolidated complaint against your petitioners, alleging that your petitioners had engaged in and were engaging in unfair labor practices, affecting commerce within the meaning of Section 8(1) and (5) and Section 2(6) and (7) of the National Labor Relations Act (herein called the Act), and that the petitioners, Idaho Potato Growers and L. S. Taube & Company, had also engaged in and were engaging in unfair labor practices within the meaning of Section 8(3) and Section 2(6) and (7) of the Act, 49 Stat. 449, in that your petitioners had (1) through its officers,

agents and employees, made various statements to its employees discouraging affiliation or activity on behalf of the Union, and (2) have interfered with, restrained and coerced their employees in the exercise of their rights guaranteed to them in Section 7 of the Act, and (3) have refused to bargain with the Union as provided in Section 8(5) of the Act; (4) that the petitioners, Idaho Potato Growers, Inc., and L. S. Taube & Company, discharged and refused to reinstate certain employees, and (5) the petitioner, Idaho Traffic Association, is an employer in the meaning of Section 2(2) of the Act.

III. That on or about the 25th day of October, 1942, your petitioners duly served and filed their answer and a motion to dismiss, in which your petitioners denied that they had engaged in or were engaging in any unfair labor practices or had in any way violated the Act, as alleged in said consolidated complaint; moving to dismiss on the ground, among others, that the employees involved were engaged as agricultural laborers.

IV. That issue having been joined in the said proceeding before the Board and your petitioners, a hearing was held at Idaho Falls, Idaho from November 2nd to 10th, 1942, before William B. Barton, Trial Examiner duly designated by the Board.

V. That at the opening and close of the Board's case and at the close of the entire case, your petitioners duly moved to dismiss the Board's consolidated complaint and all proceedings thereunder on the ground that the (1) Board had no jurisdiction over the employees involved, inasmuch as they were

agricultural laborers; (2) that the cases of the above named petitioners were improperly consolidated; (3) that the petitioner, Idaho Traffic Association, was not an employer; (4) that the Union had not been designated as the proper bargaining agent, and (5) that the petitioners, C. R. Holden and J. E. O'Neill, were improperly joined as parties, inasmuch as their businesses had been transferred to new owners, but said motions were denied by the Trial Examiner.

VI. That during the course of said hearing, your petitioners duly objected to certain evidence offered on behalf of the Union and duly moved to strike out certain other evidence admitted over the petitioners' objections but the Board's Trial Examiner overruled said objections and denied such motions.

VII. That on or about the 9th day of January, 1943, Trial Examiner Barton filed his intermediate report in which he found and concluded that the petitioners had engaged in unfair labor practices and in which he recommended that the petitioners take certain affirmative action to remedy the situation brought about by such unfair labor practices, including the "making whole" of certain employees.

VIII. That thereafter, to-wit, on or about the 30th day of Jan., 1943, pursuant to the rules and regulations of the Board, your petitioners duly made, served and filed with the Board, its exceptions to the Trial Examiner's intermediate report.

IX. That thereafter, to-wit, on March 15, 1943,

oral argument of counsel was had before the Board upon the issues of fact and of law in said proceedings, in which argument counsel for your petitioners prayed that said consolidated complaint and the proceedings thereunder be dismissed upon the grounds set forth in petitioners' exceptions to the Trial Examiner's intermediate report and upon the further ground that neither the acts of your petitioners alleged in said complaint or the acts of your petitioners as shown in the testimony or other evidence at the hearing constituted any violation of the National Labor Relations Act, 49 Stat. 449, or of any other law or statute, the enforcement of which is entrusted to the Board.

X. That thereafter, to-wit, on or about April 10, 1943, the said Board did make and file its decision and final order in the said proceedings, which decision and order were served on your petitioners by mail on April 14, 1943, and by which your petitioners were ordered to:

"1. Cease and desist from:

(a) Refusing to bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of the employees of the petitioners in each of the units found above to be appropriate for the purposes of collective bargaining;

(b) In any other manner interfering with, restraining, or coercing the employees of the petitioners in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bar-

gain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

A. Take the following affirmative action; which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of all the employees of the petitioners in each of the units found above to be appropriate, with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately in conspicuous places in the respective warehouses of the petitioners in Idaho Falls, Firth, and Shelley, and in the place of business of the Idaho Traffic Association in Idaho Falls, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to employees of the petitioners, stating that the petitioners will not engage in the conduct from which they are ordered to cease and desist in paragraphs 1,(a) and (b) of this petition, and that they will take the affirmative action set forth in paragraph 1, A (a) of this petition;

(c) Notify the Regional Director for the Nineteenth Region in writing, within ten (10) days from the date of this Order, what steps they have taken to comply herewith.



2. The petitioners L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company, and their agents, successors, and assigns, shall, in addition:

A. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of their employees, by discharging or refusing to reinstate any of their employees or in any other manner discriminating in regarding to their hire and tenure of employment or any term or condition of their employment.

B. Take the following affirmative action, which the Board finds will effectuate the policies of the Act.

(a) Make whole Willard Moore for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which he obtained his present employment, less his net earnings during such period;

(b) Insert in the notice which they are directed to post in paragraph 1, A (b) of this petition the statement that they will not engage in the conduct from which they are ordered to cease and desist in paragraph 2, A of this petition; that they will take the affirmative action set forth in paragraph 2, B (a) of this petition; that their employees are free to become and remain members of Teamsters,



Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that they will not discriminate against any employee because of membership in or activity on behalf of that organization;

3. The petitioner Idaho Potato Growers, Inc., and its officers, agents, successors, and assigns, shall, in addition:

A. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees or in any other manner discriminating in regard to their hire and tenure of employment or any term or condition of their employment.

B. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Make whole Milo Rash for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which his wife obtained her present civil service employment, less his net earnings during such period;

(b) Insert in the notice which it is directed to post in paragraph 1, A (b) of this petition the statement that it will not engage in the conduct from which it is ordered to cease and desist in paragraph

3, A of this petition; that it will take the affirmative action set forth in paragraph 3, A (a) of this petition; that its employees are free to become and remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that it will not discriminate against any employee because of membership in or activity on behalf of that organization.

XI. That the Board's aforesaid decision and orders are erroneous in fact, unauthorized and insufficient in law, and ought to be reviewed and set aside by this Court for the following reasons:

(1) The said decision and orders, and the findings of fact and conclusions of law of the Board upon which the said decision and orders are based, are not in accordance with law, and the Board is without jurisdiction over the petitioners' employees, inasmuch as said employees are agricultural laborers within the meaning of such term, and definitions thereto applied.

(2) The Board, through its Trial Examiners, erred in admitting and considering incompetent, immaterial and irrelevant testimony prejudicial to petitioners, and is more fully and specifically set forth in petitioners' exceptions to the Intermediate Report filed by Trial Examiner Barton;

(3) The acts of the petitioners as shown by the testimony do not constitute a violation of the National Labor Relations Act;

(4) The Board erred in finding and concluding that your petitioners, by anti-union statements and

in other ways, interfered with, restrained and coerced its employees in the exercise of rights guaranteed by Section 7 of the Act and thereby engaged in unfair labor practices within the meaning of Section 8(1) of the Act;

(5) Excepts to the finding and conclusion that the petitioner, Potato Growers, deals in or buys potatoes from non-members of its Cooperative Association, inasmuch as the testimony shows that this petitioner ships only potatoes of its members.

(6) Excepts to the finding and conclusion (on Page Eight of the report), that the authority to control the workmen working in the farmer's cellar rests entirely with the foreman, whereas the facts show that the farmer may discharge or stop the work or otherwise control the crew while working in his sorting cellar.

(7) Excepts to the finding and conclusion (Page Eight of the report), that employees involved are not agricultural labor.

(8) Excepts to the conclusion (on page twelve of the report), that the employee, Willard Moore, was discriminated against, whereas it appears that Willard Moore was one of the youngest men in point of service working for the company and, whereas it appears that all the employees laid off by L. S. Taube & Company were laid off because of seasonal lack of work and, whereas it appears from the record that Willard Moore was consulted by the employer and asked to report back for work. Petitioner excepts to the fact that the examiner

failed entirely to take note of the testimony that the employer, L. B. Holden, consulted Willard Moore, the employee, with reference to coming back to work, this conversation taking place within a few days after the lay-off.

(9) Excepts to the conclusion of the examiner (Page Eighteen of the report), that Milo Rash was discriminated against in regard to hire and tenure of employment, or that the employer in any way violated Section Seven of the Act.

(10) Excepts to the finding and conclusion of the examiner (on Page Nineteen of the report), that the warehouse at Shelley, Idaho and Idaho Falls, Idaho of the petitioner Potato Growers belong in one unit for purposes of collective bargaining, this by reason of the fact that these are separate and distinct employee groups and have been so treated and considered by the petitioner Potato Growers; the same exception applying to the petitioner, L. S. Taube & Company.

(11) Excepts to the conclusion of the examiner (on Page Twenty-three of the report), with reference to the meetings of October 7th and 12th, and, particularly, to the examiner's conclusion that a counter proposal was to be submitted by the employers and to the conclusion that the two paragraph contract referred to therein by Mr. Owens was merely a starter, whereas Mr. Owens at the October 7th meeting definitely agreed to a two paragraph contract without the closed shop, but later on and at the October 12th meeting, in the presence of organizer May, repudiated this offer.

(12) Excepts to the conclusion of the examiner (on Page Twenty-five), that the petitioners refused to bargain with the Union, whereas the record clearly shows that at the October 7th and 12th meetings, negotiations and bargaining in good faith were entered into on the part of all parties concerned. This was repeatedly admitted by the Union representatives during the hearing of the above cases.

(13) Excepts to the conclusions of the examiner that the petitioners, Rowenah O'Neill, as Administratrix of the Estate of J. E. O'Neill, and the partnership of C. R. Holden and his brother, are responsible for the acts or actions of J. E. O'Neill or Holden Brothers, Inc., and that the cases with reference to these petitioners should be dismissed.

(14) Excepts to the finding (on Page Twenty-seven of the report), that the Idaho Traffic Association interfered with or restrained the employees of the representative petitioners in the exercise of their rights.

(15) Excepts to the finding (on Page Twenty-seven of the report), that the petitioners, L. S. Taube and Potato Growers, are indebted to Willard Moore or Milo Rash, or that either of said employees has suffered any loss.

(16) Excepts to the ruling by the examiner denying the petitioner's motion to dismiss upon the grounds set forth in said motion, a copy of which is a part of the record herein.

Wherefore, your petitioners pray this Honorable Court to review and set aside the decision and or-



ders of the National Labor Relations Board herein referred to and to grant petitioners such other and further relief as to the Court may seem just and proper.

Dated: at Boise, Idaho, this 8th day of July, 1943.

THE PETITIONERS ABOVE  
NAMED, AND EACH OF  
THEM

By: E. A. WESTON

E. A. Weston, Their Attorney

State of Idaho,

County of Ada—ss.

E. A. Weston, being first duly sworn, states that he is the Attorney for the above named petitioners, and each of them; that he has read the foregoing petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information and belief.

E. A. WESTON

Attorney for Petitioners

Subscribed and sworn to before me this 8th day of July, 1943.

[Seal]

MAX YOST,

Notary Public for State of Idaho. Residing at  
Boise, Idaho.

My Commission expires January 13, 1945.

[Endorsed]: Filed July 10, 1943. Paul P.  
O'Brien, Clerk.



[Title of Circuit Court of Appeals and Cause.]

ON PETITION FOR REVIEW OF DECISION  
AND ORDER OF THE NATIONAL LABOR  
RELATIONS BOARD

ANSWER OF THE NATIONAL LABOR RE-  
LATIONS BOARD AND REQUEST FOR  
ENFORCEMENT

To the Honorable, the Judges of the United States  
Circuit Court of Appeals for the Ninth Cir-  
cuit:

Comes now the National Labor Relations Board,  
and, pursuant to the National Labor Relations Act  
(49 Stat. 449, 29 U.S.C., Sec. 151, et seq.), files this,  
its answer to the petition for review of a Decision  
and Order of the Board, and its request for en-  
forcement of the Board's Order.

1. The Board denies the allegation contained in  
paragraph I of the petition for review, that peti-  
tioners, with the exception of the Idaho Traffic As-  
sociation, are engaged in packing and shipping po-  
tatoes grown by themselves, as well as others, and  
asserts that, according to the certified transcript of  
the entire record of the proceedings before the  
Board, filed herein, none of the said petitioners  
was engaged in the growing of potatoes except pe-  
titioners W. P. Wilson and A. G. Stuart, who pro-  
duced only from 10 to 15 percent and 5 percent,  
respectively, of the potatoes sold and shipped by  
them during the 1941-1942 season. The Board ad-  
mits the other allegations contained in said para-  
graph I of the petition for review.

2. In answer to the allegations contained in paragraphs II to X, inclusive, of the petition for review, the Board prays reference to the certified transcript of the entire record of the proceedings before the Board, filed herein, for a full and exact statement of the pleadings, evidence, exhibits, findings of fact, conclusion of law, and Order of the Board, and all other proceedings had in this matter before the Board.

3. The Board denies each and every allegation set forth in paragraph XI and subparagraphs (1) to (16), inclusive, thereof, of the petition for review.

Wherefore, having answered each and every allegation contained in the petition for review, the Board requests this Court to deny petitioners' prayer that the Decision and Order of the Board be set aside.

Further answering, the Board, pursuant to Section 10 (e) of the National Labor Relations Act, respectfully requests this Court for enforcement of its Order against petitioners dated April 10, 1943, entered in consolidated proceedings before the Board, entitled: "In the Matter of Idaho Potato Growers, Inc. and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2489; In the Matter of W. P. Wilson and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2490; In the Matter of L. S. Taube, Ted Taube, and L. B.

Holden, Co-partners, d/b/a L. S. Taube & Company and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2491; In the Matter of Meyer Friedman and Arthur E. Friedman, Co-partners, d/b/a S. Friedman & Sons, and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2492; In the Matter of Idaho Falls Warehouse Company and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2493; In the Matter of Rowenah O'Neil, administratrix of the Estate of J. E. O'Neil, deceased, and Idaho Traffic Association, and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2494; In the Matter of A. G. Stuart and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2495; and In the Matter of C. R. Holden and L. L. Holden, Co-partners, d/b/a/ Holden Brothers and Idaho Traffic Association and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A.F.L., Case No. C-2496." In support of its request for enforcement of its Order, the Board alleges:

(a) The unfair labor practices which are the subject of the present proceeding occurred in the State of Idaho within this judicial circuit;

(b) Upon the consolidated proceedings had before the Board in the aforesaid cases involving petitioners, including, without limitation, the amend-

ed charges, the complaint, answer, and hearing for the purpose of taking testimony, the Trial Examiner's Intermediate Report, the exceptions filed thereto, and the brief presented to and oral argument had before the Board, more fully shown by the transcript of the entire record filed herein, to which reference is hereby made, the Board on April 10, 1943, adopted the findings, conclusions, and recommendations of the Trial Examiner, except as otherwise noted in its Decision and Order, thereby duly stating its findings of fact and conclusions of law, and issued an Order directed to the petitioners (therein designated as "respondents"), and their respective officers, agents, successors, and assigns. So much of the aforesaid Order as relates to this proceeding provides as follows:

### ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that:

1. The respondents, Idaho Potato Growers, Inc.; W. P. Wilson; L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company; Meyer Friedman and Arthur E. Friedman, co-partners doing business as S. Friedman & Sons; Idaho Falls Warehouse Company; Rowenah O'Neil, administratrix of the Estate of J. E. O'Neil, deceased; A. J. Stuart; C. R. Holden and L. L. Holden, co-partners doing business as Holden Brothers; and Idaho Traffic Association, when act-

ing as agent for or in the interest of any of the other respondents; and their respective officers, agents, successors, and assigns, shall:

a. Cease and desist from:

(1) Refusing to bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of the employees of the respondent dealers in each of the units found above to be appropriate for the purposes of collective bargaining;

(2) In any other manner interfering with, restraining, or coercing the employees of the respondent dealers in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(1) Upon request, bargain collectively with Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, as the exclusive representative of all the employees of the respondent dealers in each of the units found above to be appropriate, with respect to rates of pay, wages, hours of employment, and other conditions of employment;



(2) Post immediately in conspicuous places in the respective warehouses of the respondent dealers in Idaho Falls, Firth, and Shelley, and in the place of business of the Idaho Traffic Association in Idaho Falls, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to employees of the respondent dealers stating that the respondents will not engage in the conduct from which they are ordered to cease and desist in paragraphs 1, a, (1) and (2) of this Order, and that they will take the affirmative action set forth in paragraph 1, b, (1) of this Order;

(3) Notify the Regional Director for the Nineteenth Region in writing, within ten (10) days from the date of this Order, what steps they have taken to comply herewith.

2. The respondents L. S. Taube, Ted Taube, and L. B. Holden, co-partners doing business as L. S. Taube & Company, and their agents, successors, and assigns, shall, in addition:

a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of their employees, by discharging or refusing to reinstate any of their employees or in any other manner discriminating in regard to their hire and tenure of employment or any term or condition of their employment.

b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act.



(1) Make whole Willard Moore for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which he obtained his present employment, less his net earnings during such period;

(2) Insert in the notice which they are directed to post in paragraph 1, b, (2) of this Order the statement that they will not engage in the conduct from which they are ordered to cease and desist in paragraph 2, a, of this Order; that they will take the affirmative action set forth in paragraph 2, b, (1) of this Order; that their employees are free to become and remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that they will not discriminate against any employee because of membership in or activity on behalf of that organization;

3. The respondent Idaho Potato Growers, Inc., and its officers, agents, successors, and assigns, shall, in addition:

a. Cease and desist from discouraging membership in Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire and

tenure of employment or any term or condition of their employment.

b. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(1) Make whole Milo Rash for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of the discrimination against him to the date on which his wife obtained her present civil service employment, less his net earnings during such period;

(2) Insert in the notice which it is directed to post in paragraph 1, b, (2) of this Order the statement that it will not engage in the conduct from which it is ordered to cease and desist in paragraph 3, a, of this Order; that it will take the affirmative action set forth in paragraph 3, b, (1) of this Order; that its employees are free to become and remain members of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 983, affiliated with the American Federation of Labor; and that it will not discriminate against any employee because of membership in or activity on behalf of that organization.

(c) On April 10, 1943, the Board duly served the aforesaid Decision and Order upon the petitioners.

Wherefore, the Board respectfully prays that this Honorable Court cause notice of the filing of this

answer and request for enforcement, and of the filing of the entire record in said proceedings before the Board, to be served upon petitioners, and that this Court take jurisdiction of the proceedings and of the questions determined therein, and make and enter upon the pleadings, testimony and evidence, and proceedings set forth in the transcript of the said proceedings, and up on the order made thereon, a decree denying the petition to review, and enforcing in whole said order of the Board, and requiring petitioners, and their officers, agents, successors, and assigns to comply therewith.

MALCOLM F. HALLIDAY

Malcolm F. Halliday

Acting General Counsel

NATIONAL LABOR RELATIONS BOARD

Dated at Washington, D. C. this 9th day of August, 1943.

District of Columbia—ss.

Malcolm F. Halliday, being first duly sworn, states that he is Acting General Counsel of the National Labor Relations Board, respondent herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the foregoing answer and request for enforcement and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information and belief.

MALCOLM F. HALLIDAY

Acting General Counsel

Subscribed and sworn to before me this 9th day of August 1943.

[Seal]

JOSEPH W. KULKIS

Notary Public, District of Columbia. My commission expires April 15, 1947.

[Endorsed]: Filed Aug. 17, 1943. Paul P. O'Brien, Clerk.

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[Title of Circuit Court of Appeals and Cause.]

### CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Chief of the Order Section, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board—Series 2, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of a consolidated proceeding had before said Board entitled, "In the Matter of Idaho Potato Growers, Inc., et al., and Teamsters, Chauffeurs, Warehousemen and Helpers, Local 983, A. F. L.," the same being Cases Nos. C-2489 to C-2496 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

(1) Stenographic transcript of testimony held before William B. Barton, Trial Examiner for the

National Labor Relations Board, on November 2, 3, 4, 5, 6, 9, and 10, 1942, together with all exhibits introduced in evidence.

(2) Copy of stipulation for correction of transcript of testimony.

(3) Copy of order, issued by Trial Examiner Barton on December 31, 1942, providing for correction of transcript, in accordance with stipulation.

(4) Copy of Trial Examiner Barton's Intermediate Report, dated January 9, 1943.

(5) Copy of order transferring case to the National Labor Relations Board, dated January 12, 1943.

(6) Copy of respondents' letter, dated January 22, 1943, requesting oral argument before the Board, and an extension of time to file exceptions and brief.

(7) Copy of telegram, dated January 23, 1943, granting all parties an extension of time to file exceptions and brief.

(8) Copy of respondents' exceptions to the Intermediate Report.

(9) Copy of notice of hearing for the purpose of oral argument, dated March 1, 1943.

(10) Copy of list of appearances at the oral argument held before the Board on March 16, 1943.

(11) Copy of Decision and Order issued by the National Labor Relations Board, April 10, 1943, with Intermediate Report annexed, together with affidavit of service thereof.

In Testimony Whereof the Chief of the Order Section of the National Labor Relations Board,

being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 9th day of August, 1943.

[Seal]

JOHN E. LAWYER

Chief, Order Section

NATIONAL LABOR RELATIONS BOARD

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United States of America

Before The National Labor Relations Board  
Nineteenth Region

Case No. XIX-C-1116

In the Matter of

IDAHO FALLS POTATO GROWERS ASSOCIATION AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. of L.



Case No. XIX-C-1117

W. P. WILSON AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. of L.

Case No. XIX-C-1118

L. S. TAUBE, TED TAUBE, AND L. B. HOLDEN; Co-Partners, d/b/a L. S. TAUBE & COMPANY; AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. of L.

Case No. XIX-C-1125

MEYER FRIEDMAN AND ARTHUR E. FRIEDMAN, Co-partners, d/b/a S. FRIEDMAN & SONS AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL 983, A. F. of L.

Case No. XIX-C-1127

IDAHO FALLS WAREHOUSE COMPANY  
AND IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F.  
of L.

Case No. XIX-C-1129

ROWENAH O'NEIL, ADMINISTRATRIX OF  
THE ESTATE OF J. E. O'NEIL, Deceased;  
and IDAHO TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F.  
of L.

Case No. XIX-C-1131

A. G. STEWART AND IDAHO TRAFFIC AS-  
SOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F.  
of L.

Case No. XIX-C-1137

C. R. HOLDEN AND L. L. HOLDEN, Co-partners  
d/b/a, HOLDEN BROTHERS, AND IDAHO  
TRAFFIC ASSOCIATION

and

TEAMSTERS, CHAUFFEURS, WAREHOUSE-  
MEN AND HELPERS, LOCAL 983, A. F.  
of L.

Bonneville County Court House  
Idaho Falls, Idaho  
November 2nd, 1942

The above-entitled matter came on for hearing  
pursuant to due notice, as follows:

Before: William B. Barton, Trial Examiner.

Appearances:

William A. Babcock, Jr., and  
Louis S. Penfield,  
Attorneys,  
Seattle, Washington,  
Appearing for the Board.

E. A. Weston,  
Box 1922, Boise, Idaho,  
Appearing for the respondents.

Lee Owen, 140 South 1st Ave., Pocatello, Idaho,  
Appearing for the Teamsters, Chauff-  
eurs, Warehousemen & Helpers,  
Union Local 983. [2\*]

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\* Page numbering appearing at top of page of original Reporter's Transcript.

## TESTIMONY

## PROCEEDINGS

Mr. Penfield: Mr. Examiner, we would like to move to amend the complaint in one particular, by the,—I beg your pardon,—in two particulars. The first, with respect to the spelling of the names of one of the respondents in the company, the name of the respondent Stewart, which is spelling S-t-e-w-a-r-t and we are informed that that is in error and the correct spelling is S-t-u-a-r-t. Is that correct Mr. Weston?

Mr. Weston: Yes.

Trial Examiner Barton: Any objection to the correction?

Mr. Weston: No.

Trial Examiner Barton: That may be done.

Mr. Penfield: Then in the other connection we wish to make an addition of paragraph XV, being sub-section 5, which will read as follows: The Respondent Potato Growers, Respondent Wilson, Respondent Taube, Respondent Friedman, Respondent [21] Warehouse Company, Respondent O'Neil, Respondent Stuart, and Respondent Holden have individually and collectively at various times since January 16, 1942, granted wage increases to their employees, said wage increases were granted by the aforesaid respondents without discussion or negotiation with the Union and for the purpose of undermining the Union's position as the exclusive bargaining agency,—or representative of their respective employees.

It is our belief that this amendment will be in no way prejudicial to the respondents.

Trial Examiner Barton: Is there any objection?

Mr. Weston: Yes. We very strenuously object to that amendment on the grounds that these attorneys should have known this for several months and have made that known. Now they come in at this particular time and amend a material matter of great importance without giving us an opportunity to answer. This is a separate or another matter that requires a good deal of time to prepare and I think you can appreciate that for me or any other attorney to go into an amendment of such a nature at such a late time makes it practically impossible; I can't prepare to answer this now; it is practically impossible. I don't think they have a right to come in and take us by surprise like this with a matter they have undoubtedly *know* about for some time.

Mr. Penfield: Mr. Examiner, we have not had ample time [22] to secure all the information regarding this from the respondents and have been unsuccessful so far and as far as their being taken so by surprise and being prejudiced, at the present time I don't think it is, it is true; because the only issue is whether or whether or not they did or did not grant wage increases during this particular time and that evidence is available by the records.

Trial Examiner Barton: Is the evidence you propose to introduce under this paragraph severable from your other evidence?

Mr. Babcock: The evidence which we propose to introduce is the payroll records of the respondents, which are under the subpoena at this time and which are of course, the best record of any wage changes.

Mr. Penfield: We feel that this is implicit in the general matter of our complaint. We have merely set it forth in detail because we felt that is what we ought to do.

Mr. Weston: There is nothing in the complaint in this line at all.

Trial Examiner Barton: Well I am going to give the respondents every opportunity to meet the issue. I am going to allow the amendment, but I am going to say this, that any evidence that you have to introduce pursuant to this amendment, hold back to the end of the Board's case and at that time I will [23] decide as to whether the evidence should go in at that time or at a later time. It may be that in the event the Board should complete its case.

Mr. Weston: Could we be given any further time to answer that or are we to put our answer in during the trial?

Trial Examiner Barton: I will allow you ten days to make your answer.

Mr. Weston: From today?

Trial Examiner Barton: Yes. [24]

Mr. Penfield: Call Mr. C. R. Holden.



C. R. HOLDEN

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Barton: State your full name for the record, please.

A. C. R. Holden.

Q. (By Mr. Penfield) Mr. Holden, are you a partner in Holden Brothers, which is named in the complaint?

A. I am,—pardon me,—in the amended complaint; not in the first complaint we received.

Q. I think you are confusing the Charge with the Complaint, Mr. Holden. In the Complaint the name is “Holden Brothers.”

A. I am, sir.

Q. Does the complaint state correctly the name of the partnership?

A. It does. [27]

Q. When was this partnership formed?

A. July first, 1942.

Q. Did you have any connection with a corporation known as Holden Brothers, Incorporated?

A. Part ownership; yes, sir.

Q. When was this corporation organized?

A. 1939.

Q. And who were the incorporators?

A. J. M. McCauley; L. L. Holden, and C. R. Holden.

Q. And for what purpose was this corporation formed?

A. For the purpose of carrying on a produce business.

(Testimony of C. R. Holden.)

Q. Where?

A. We operated both here and in New York.

Q. Will you describe the nature of your operations?

A. Well, we handled mostly potatoes,—handled some onions,—and part of the potatoes were sold here, and part were sold in New York, and part of them were sold on the wire all over the country, the same as any other produce business. Does that answer your question?

Q. Did you maintain an office in New York?

A. McCauley & Son did; yes, sir.

Q. And you operated through them. What were they,—a brokerage firm?

A. They bought some outright, and some on brokerage, yes, sir. [28]

Q. Will you describe for us,—your actual warehouse was in Idaho Falls, was it not?

A. That is correct.

Q. Will you describe for us the nature of the physical properties which the Holden Corporation owned in Idaho Falls?

A. At that time when this was incorporated the only property they owned was the warehouse and equipment located in Idaho Falls.

Q. And what type of business was carried on in that warehouse?

A. Produce business.

Q. By a “produce business,” what do you mean, a little more in detail?

A. I mean wholesaling potatoes, which was buy-

(Testimony of C. R. Holden.)

ing and selling potatoes, and other commodities in the line of a produce business.

Q. You sorted and packed potatoes, did you not?

A. Yes, sir.

Q. You had facilities for the sorting and packing of potatoes at that warehouse?

A. We packed a large portion on the farms, but some were repacked in the warehouse here, correct. I would say that ninety per cent of our potatoes was packed in the growers' cellars on the farms, and some of those came into the warehouse and was repacked, and others moved direct in the cars. [29]

Q. Can you name for *the* the officers of the Holden Corporation?

A. The three parties I mentioned, J. M. McCauley, L. L. Holden and C. R. Holden.

Q. And who were the directors of the corporation?

A. J. M. McCauley, L. L. Holden, C. R. Holden, and Mrs. Annabelle Holden.

Q. And how many stockholders were there in the corporation?      A. Three stockholders.

Q. Were they the same parties you have named as being the incorporators?      A. Yes, sir.

Q. Was this true during the entire existence of the Holden Brothers, a corporation?

A. Of the corporation; yes, sir.

Q. Is this corporation still in existence?

A. No, sir.

Q. What happened to it?

A. We purchased the interest of J. M. McCauley

(Testimony of C. R. Holden.)

& Son,—L. L. Holden and C. R. Holden are operating now as a partnership. We purchased their Idaho interests.

Q. I don't know as I quite followed you there, Mr. Holden. You said, "we purchased it," do you mean L. L. Holden and C. R. Holden purchased it?

A. I mean L. L. Holden and C. R. Holden purchased the [30] *the* interests of J. M. McCauley & Son. We liquidated the corporation; it was all advertised according to law, and we operate now as a copartnership, mostly growing, but still shipping, potatoes.

Trial Examiner Barton: When did you liquidate the corporation?

A. Along about June 30th, 1942.

Q. Were legal steps taken to dissolve the corporation?

A. Yes, sir; it was handled according to law in the State of Idaho, and so advertised. [31]

Q. What I hand in mind, Mr. Holden, was to ascertain if you purchased Mr. McCauley's interests, and then went through these proceedings to dissolve the corporation?

A. I will answer this way: At the time Mr. McCauley stated his desire to sell out was when we decided to liquidate the corporation. I can't tell you just whether it was right on that date, or before, without checking the records.

Q. When the corporation was dissolved to whom were the assets distributed?

A. To the stockholders.

(Testimony of C. R. Holden.)

Q. To the individual stockholders?

A. To the stockholders of the corporation.

Q. I believe you have testified the partnership was formed [32] on about July first, 1942?

A. That is correct.

Q. And that partnership was comprised of yourself and Mr. L. L. Holden?

A. That is correct.

Q. Did the partnership acquire the assets of the corporation in its entirety?

A. They acquired most of the assets of the corporation.

Q. Did they acquire the physical properties used by the Holden Corporation in conducting its business in Idaho Falls?

A. Most of the property; yes, sir.

Q. That includes the warehouse and the sorting facilities that you have previously testified that were owned by the corporation?

A. The equipment, yes, sir.

Q. And all of the equipment. What is the business of this partnership?

A. Mostly growing potatoes, but we do handle some carlot potatoes.

Q. What do you mean by,—

A. I mean our general operation is farming. Most of our revenue and our operations is strictly farming, growing potatoes and stock.

Q. Does the partnership still operate their warehouse?

A. Part of the time, mostly for our own use in

(Testimony of C. R. Holden.)

production [33] that is handled and grown on our own farm.

Q. Do you still purchase potatoes and carry on sorting? A. We do, some; yes, sir.

Q. Do you,—and you have employees who are engaged in that work of sorting and handling the potatoes?

A. We have some employees, a small portion of the amount the old corporation you spoke of had. Most of the employees we now have work, a large portion of them, around on the farm, and sometimes work in the warehouse in the winter time when they can't work on the farm. That is correct.

Q. What percentage of the potatoes you now handle are from your own farm?

A. Well, I would say this season, off-hand, about sixty-five or seventy per cent.

Q. The remainder you purchase from other growers?

A. Up to date, yes, sir, or other carlot dealers. We had quite a few loaded cars we received from other operators.

Q. Are these carlot purchases already sorted?

A. Yes, sir.

Q. Or do you sort *of* them?

A. They are all loaded on the cars.

Q. Then when you stated sixty-five per cent were potatoes that were grown on your own farm, did you mean that the remaining thirty-five per cent were purchased to be sorted and packed by you?

[34]



(Testimony of C. R. Holden.)

A. That would also up to date this season include the cars we purchased loaded on the track, and what we haul from the country other than our own farm.

Q. What you referred to as carlot purchases?

A. Not altogether. It would make up the two, from other growers, and carlot purchases.

Q. Now, Mr. Holden, the Holden Corporation operated during the entire 1941-'42 potato season, did it not? That was last season?

A. It would depend on the expiration of your year. It operated half a year, if you want it to expire on January first. If it so happened your year expired in June, it would be the full year of 1941-'42.

Q. I was referring to the season during which potatoes are packed and shipped.

A. Out of this area?

Q. Yes.

A. That would be the 1941-'42 fiscal year; yes. [35]

Q. Now, will you describe for us in some detail the manner in which the business of the Holden Corporation was conducted? By that I mean, Mr. Holden, will you state for us what kind of produce the corporation handles, how it is purchased,—how the purchases of the produce were made, whether it used written purchase agreement, and how the price was agreed upon, and that sort of thing? Do you follow me, Mr. Holden?

A. No; I don't.

(Testimony of C. R. Holden.)

Mr. Weston: We object to that as being repetition. He has already told how he operates.

Mr. Penfield: No; he hasn't.

Mr. Weston: And what he does.

Trial Examiner Barton: Suppose that you restate the question, Mr. Penfield.

Q. Well, I believe you testified you handled produce, chiefly potatoes? [36] A. Yes, sir.

Q. Now, did the Holden Corporation purchase these potatoes from local growers, and by what sort of purchasing agreement or arrangement?

Mr. Weston: May I ask you to limit that as to a time.

Mr. Penfield: I was limiting it during the period when the Holden Corporation was operating during last season, which I believe to be typical.

Trial Examiner Barton: All right, the question is directed to last season.

A. As I understand the question it is, Did we use a written contract with the growers?

Q. I want to know what sort of an arrangement you had with the grower for the purchase of these potatoes?

A. We simply call the grower on the phone and buy the potatoes; we don't need any written contract. They deliver what they sell, and we take what we buy. There is no written contract,—if that answers your question,—in the purchase.

Q. On that feature of it. How do you agree on the price, and perhaps you could do it better

(Testimony of C. R. Holden.)

by describing a typical instance of your purchasing from a grower.

A. Well, it would depend on the case. There is a number of different ways we purchase from the growers. In many [37] cases we buy the potatoes from the grower and he packs his own potatoes and delivers them at the warehouse, or puts them directly on the car. There is a large volume of potatoes handled in that way,—was during that period that you mention. In many cases we buy potatoes from the grower at a given price, whatever we decide on, and the grower packs the potatoes and we haul them to the warehouse. It would be hard to give you the percentages without checking the records.

Q. Are there other cases where you do the hauling and packing?

A. In any case where we buy them in the farmer's cellar and all of the crew, or a portion of the crew, goes there to sort them, and the farmer might work himself, or furnish a portion of the crew; yes, sir.

Q. As a matter of fact, that was the more usual instance, during the last season, was it not, to purchase them in the cellar and send your crew out to sort and pack them?

A. I will answer that this way: We figure nine men to a crew, and we keep most of the time four crews in the country, which would be thirty-six men, and we kept one crew in the house, and these country crews stay in the country and sort pota-

(Testimony of C. R. Holden.)

toes in the farmer's cellar. In some instances, as I have said, farmers sort their own potatoes and the crew does not go into the farmer's cellar. [38]

Q. But in most instances you would send crews out?

A. I would say in a majority of the instances our country crews stayed in the farmer's cellar and did the sorting; yes, sir.

Q. Now, can you tell us just how these crews work, what they do,—the nature of their work, these country crews you referred to?

A. These country crews,—you are still talking about our particular operation?

Q. About your particular operation; yes.

A. It is our practice on the country crews, we line up nine men,—it takes nine men to the crew, and one man on the crew is the foreman, and they are known as country crews. They are very seldom in the warehouse, unless they should happen to leave from the warehouse and we furnish them conveyance to get to the job,—and they do practically their entire work on the farm, in the farmer's cellar. We buy these potatoes from the farmer. If he packs them, we allow him a certain amount for that. If we pack them, we buy them for so much and deduct the amount we pay for packing. In other words, if it costs you a dime to pack them, and the farmer packs them himself, we allow him a dime,—or we did at that time. If we buy them and pack them with these country crews, we figure we paid him a dime less on the price.

[39]

(Testimony of C. R. Holden.)

Q. In other words, you figure in the sorting cost when the price is agreed upon?

A. That is correct.

Q. Just what do each one of the workers on a country crew do, Mr. Holden?

A. Well, I don't know as I can state that. They all work on the sorter in the handling of the sorting of the potatoes and prepare them from their natural state into their processed state to be shipped. In other words, they take them out of the farmer's cellar without the culls and any decay that might be in them. They run these potatoes over a sorter and run them into bags, and then either the farmer hauls them with his own truck from his farm to the car, or to the warehouse, or we haul them with our trucks direct to the car or warehouse. Does that answer the question?

Q. Isn't it correct that you have two types of sorts, one in which they are graded for shipment in the cellar, and the other in which a rough grade is made for the purpose of eliminating the culls, and another grading made at the warehouse?

A. In cases where potatoes are washed, it is impossible to wash them on the farm. The grade is generally made on the farm, but they have to be run or sorted through the warehouse to be washed. The process is identically the same, with the exception they must run through the washer [40] into the bags before they go into the car.

Q. Then there is another grading made in the warehouse in many cases where they are washed?

A. Yes, sir.

(Testimony of C. R. Holden.)

Q. Do you have a foreman who does your hiring and firing?

Trial Examiner Barton: Are you talking about the corporation, or about the partnership?

Mr. Penfield: I am still talking about the corporation.

A. We have a foreman who is in charge of the warehouse. We very seldom have any occasion for firing a man.

Q. What I mean to get at is his authority rather than what he does?

A. I would say he did have authority in case it was [41] necessary to use it; yes, sir.

Q. Does he do most of your hiring?

A. No; he doesn't.

Q. Who does?

A. We did most of our own hiring at that time. My brother or myself did most of the hiring.

Q. The two of you were in actual charge of the operation then?

A. We were in charge of the business at this end of the line; yes, sir.

Q. And you hired the men who were used in your warehouse crew or on the country crews, is that correct?

A. Most of the time. Sometimes if we were short in a crew the growers would pick up some of the farm boys to make up the crew. In that case they would hire them and we would pay them.

Q. They would agree through you,—they would call you and tell you they had somebody to do the job?



(Testimony of C. R. Holden.)

A. When the boys came in at night the foreman would have a list of the men who worked; yes, sir, and the men who the farmer might have put on, or maybe the farmer and his boys themselves would be on the list. That is correct.

Q. All employees, including the country crews, were on the payroll of the Holden Corporation, and that payroll was made up at your warehouse office, is that correct? [42]

A. I stated before the payroll was made up at the warehouse, and in some cases if they had the farmer work, we simply added that to the price of the potatoes, and the farmer paid the crew. In cases where we had part of our workers on, we paid the crew direct.

Q. You spoke of having three crews in the field most of the time. Who paid their wages?

A. Whenever they were full crews we paid them, unless we bought them at so much packed. In that case the farmer would pay them, and we would pay him a dime more for his potatoes in that case.

Q. In either case, though, they worked under the crew foreman?

A. Worked under the,—

Q. Under the crew foreman?

A. Where we buy them and he does the sorting, and we pay an extra dime, he is actually the boss until the potatoes are graded. He guarantees the grade, and if they fail to make grade, naturally he has to stand the sorting.

Q. What do you mean by, "he guarantees the grade?"

(Testimony of C. R. Holden.)

A. All potatoes are purchased on Federal grades, either U. S. No. 1, or U. S. No. 2, or whatever it might be, and even though we buy direct from the farmer, and even though he uses some of our men, he guarantees the grade. In other words, if we allow a grower \$1.10 for potatoes and potatoes [43] were \$1.00 where we packed them, if he did not make the grade he would have to pay for double sorting, or sort them himself on the car. We would simply furnish the bags, and he would guarantee to meet the grade of U. S. No. 1, or U. S. No. 2, or whatever the case might be.

Q. What is the name of the warehouse foreman?

A. The name of the warehouse foreman we have over there now is Mr. Geiger.

Q. Who was warehouse foreman last year?

A. Well, we had different foremen there. Mr. Geiger was foreman most of the time last year.

Q. Who tells these crews where to go? Do they report to the warehouse in the morning?

A. Those that don't have,—in particular those that don't have transportation, we arrange to haul them out. They report at the warehouse. Those that had their own transportation in many cases at that time went direct to the job in the country.

Q. How are they informed as to what job to go to?

A. When they leave a job today, they know whether there is a day's work there, or not tomorrow, and before they finish that job, why, some-

(Testimony of C. R. Holden.)

one in the warehouse, either the foreman, or whoever happens to be in charge of the office, instructs them where to go to next, or in the meantime maybe Jim Jones, or some other grower might call up and want to [44] sell two cars of potatoes, and he might tell them himself when they get through at his neighbors to come to his place.

Q. But those directions where to go come directly or indirectly from the warehouse?

Mr. Weston: We object to the form of the question. That is assuming his answer means one thing, when it doesn't. That isn't what Mr. Holden said, and we object to the form of the question.

Mr. Penfield: I am asking if that is true.

Trial Examiner Barton: Let's put it this way: Do the directions as to where to go always come from the warehouse office?

A. I would have to answer this way: In most cases, unless, as I stated before, if a grower,—a neighbor someplace where we were working, he might come over that afternoon unbeknownst to us, and if they were through he might have the crew move over to his farm, either for that part of a day, or the following morning.

Q. But all of the purchasing agreements are made through the office? A. That is correct.

Q. And it is after you have made a purchase agreement that you know where to send a crew, is it not?

A. Well, naturally, we don't send a crew out,—many times growers may want their potatoes

(Testimony of C. R. Holden.)

sorted up and pay for it, [45] and not move them for a month or so afterwards, but we don't send a crew out until some arrangements are made.

Q. But you have to either directly send the crew, or have to have some understanding with the grower with whom you have the contract whereby the grower tells the crew to come over to his farm, for example, after sorting nearby,—isn't that about the way it work?      A. Yes, sir.

Q. Now, is the work,—bear in mind I am still referring to last year and to the Holden Corporation,—is the work performed in the cellars different from the work performed in the warehouse? If so, in what manner?

A. No; it is identically the same work, with the exception the potatoes in the warehouse might be washed, or might be put up in different size packages.

Q. But the sorting and the grading that takes place is essentially the same type, is that correct?

A. The grading done on the farm, if they are prepared for market and go direct to the car, is identically the same as the work done in the warehouse, with the exception of possibly if they had to be washed; yes, sir.

Q. But if it is a rough grading, the grading on the farm may be less expensive, is that correct?

A. I don't quite understand the question as to rough grading. They all grade U. S. No. 1, or U. S. No. 1 or [46] whatever the grade might be, before they leave the farmer's cellar.

Q. Perhaps I used the wrong words. What

(Testimony of C. R. Holden.)

I meant was, "rough sorting." I meant the sorting of the culls from the potatoes before they bring them to the warehouse.

A. In some cases there would be a rough grade made in the country where it wouldn't meet the requirements of U. S. No. 1, with the understanding that the farmer would take the shrinkage on identically the same work in the warehouse if they were washed.

Q. I believe you have already testified in some,—in a certain manner with regard to the length of the potato season. As I understand what you mean by the "potato season," is the season in which potatoes are harvested and shipped. The normal season,—now, I wonder if you would state again just approximately what that period is.

A. I said the old potato season,—what is known as the old potato season in Idaho, normally starts about September first and ends June first.

Q. That is the normal season?

A. However, many operations go straight through the season, due to the fact a new area starts before an old area is cleaned up. [47]

Q. What was the policy of the Holden Corporation with respect to employees who would return to work in December,—I mean, in the fall of the year when the new season commenced?

A. I don't know as I quite understand you, Mr. Penfield.

Q. Did you seek to reemploy the men who had been working when the former season closed down?



(Testimony of C. R. Holden.)

A. In most cases that was true; the same boys who had been working would be back.

Q. Did you notify them of the commencement of the season in any manner?

A. Most of them would be notified about what time we would be ready to start, yes, sir. Of course, no one knew the exact time because your potatoes don't ripen that way.

Q. And in some instances they might contact you as to when they were supposed to start? [49]

A. In many cases.

Q. And it was your practice to give a preference in re-employment to the employees that had been working for you? A. Naturally.

Q. Do you know whether that was the general practice among other potato shippers?

A. I can answer in this way: It must have been because very seldom do we have a man who has been working in another warehouse come to us for employment. That would indicate they want to go back to those places.

Q. Now, you have testified, Mr. Holden, in regard to the manner in which the business of the Holden Corporation was carried out with respect to country crews and the warehouse crew, and that sort of thing. Now, will you tell us, what if any difference there is in the conducting of the business of the partnership this year?

A. Well, as I stated on your first question,—I believe it was, Mr. Penfield, the partnership in the new organization, which has nothing to do with



(Testimony of C. R. Holden.)

the Holden Brothers, Incorporated, the main source of revenue and operations is farming and growing stock. [50]

A. The normal period of the potato season, we *we* were talking of, which would take in two years, particularly last year 1941 and early 1942, would be over a period of nine months.

Q. Aren't there fluctuations in the shipments; aren't there some parts of the year that are a good deal heavier than others?

A. Not necessarily, except early fall and early spring are our two peak seasons as a rule. It didn't so happen to be [57] this year, due to abnormal conditions, but generally that is the case.

Q. What is the situation generally after the first of the year?

A. Well, it isn't a general thing, not a peak shipment of course, but the Government changes that now; but when you run into the cold weather, well then we will lose quite a lot of time and many times that cuts in on the sales during that period of the year.

Q. But what is,—there is considerable activity during the first part of the year?

A. I would say your heaviest movement in our case and in all districts is in the Fall. Your records, your Government records would bear that out I believe.

Q. Do you have any recollection of the conditions in February of last,—ought to be of this year, February 1942?

(Testimony of C. R. Holden.)

A. Just what conditions particularly?

Q. I mean the activity; whether it was the normal activity and you had normal crews on?

A. I don't just recall offhanded, but I would say it was the normal, yes.

Q. When did it begin to taper off?

A. Well, that would also depend on weather conditions, over the following three months. The heavy movement as a rule starts tapering off in March. [58]

Q. In March. Taper off pretty gradually?

A. It depends; it depends on the crop. Last year was a comparatively small crop, I would say it possibly began tapering off faster than usual last year, due to a short crop. [59]

Q. Mr. Holden, do you know of the Idaho Traffic Association?      A. Yes sir.

Q. Will you tell us when it was formed and for what purposes?

A. I don't know as I could tell you the exact date it was formed. It was formed for the purpose of handling traffic matters for the growers and shippers of Idaho, relative to freight rates, truck transportation out of the State, and that is about the extent of its activities as far as I know.

Q. Do you hold office in the Association?

A. I do not.

Q. Have you ever held office?      A. No sir.

Q. Have you ever been a member of the Board of Directors?      A. No sir. [65]

(Testimony of C. R. Holden.)

Q. (Mr. Penfield) Who comprises the membership of the traffic association?

A. I couldn't tell you that Mr. Penfield. Possibly covers most of the potato industry in the State. Some of the growers and shippers organizations, but I couldn't tell you just who the members are just off-handed.

Q. Was Holden Brothers Incorporated a member?

A. I think they were.

Q. Is Holden Brothers a member?

A. Yes sir. [66]

Q. How often does the traffic association meet?

A. They have no regular meeting dates. The manager of the traffic association handles traffic matters and he informs the dealers through bulletins in, relative to freight matters and they are subject to call. Now, what you have possibly,—leading up to here,—we have a daily,—or weekly luncheon here that is more or less of a social affair. Every Monday the dealers meet but that doesn't necessarily mean a meeting of the traffic association, as you will find a lot of railroad men and transportation men and other people that go to these meetings, so it isn't really a meeting of the traffic association.

Q. Do you know Carl DeLong?

A. Yes sir.

Q. Who is he?

A. Carl DeLong, at this time, happens to be the Secretary and manager of the Idaho Traffic Association.

(Testimony of C. R. Holden.)

Q. How long has he held that position?

A. I don't recall the exact time or date. I think shortly after the traffic association was organized.

Q. Did you regularly attend these Monday meetings of the growers?

A. I attended a good many of them, yes sir.

Q. Did Carl DeLong attend many of them?

A. He attended most of them, most of the time when he was in town, but his duties takes him to the other parts of the State a good deal and many of the times he would not be at these [67] meetings and in that case someone else was in charge of the meetings.

Q. Is Carl DeLong the Chairman whenever he was there?

A. Not all the time. In most of the cases when he was there I would say he was Chairman, yes sir.

Q. Is there any secretary at the meetings regularly?

A. No sir.

Q. Were any minutes kept?

A. To my knowledge they were not.

Q. Is the principal office of the traffic association in Idaho Falls?

A. Yes sir. [68]

Mr. Penfield: I would like to offer at this time a certified copy of the articles of incorporation of the Idaho Traffic Association. Do you have any objection Mr. Weston?

Mr. Weston: No.

Trial Examiner Barton: The document may be admitted as Board's Exhibit 2. [69]

(Whereupon, document heretofore referred

(Testimony of C. R. Holden.)

to marked Board's Exhibit 2 for identification  
was received in evidence.) [70]

BOARD'S EXHIBIT No. 2

State of Idaho,

County of Bonneville—ss.

I Hereby Certify, That the within is a full, true  
and correct copy of the Articles of Incorporation  
of Idaho Traffic Association, Inc. as appears of  
record in my office. Book 1 Art. of Incorporation,  
Page I.

In Witness Whereof, I have hereunto set my  
hand and affixed my official seal at Idaho Falls,  
Idaho, this 28th day of October, 1942.

[Seal]

W. L. BREWRINK

Clerk and Ex-Officio Recorder

By GRACE McINTOSH

Deputy

No. 148996

Articles of Incorporation

Of

Idaho Traffic Association, Inc.

Know All Men By These Presents: That we,  
the undersigned residents of the State of Idaho,  
and all of whom are of full age, and citizens of  
the United States, have this day voluntarily asso-  
ciated ourselves together for the purpose of form-  
ing a corporation under the laws of the State of  
Idaho, according to, and in compliance with Chap-  
ter 10, Article 29, Idaho Code Annotated.

(Testimony of C. R. Holden.)

And We Hereby Certify, In Writing:

I.

That the name of the corporation shall be Idaho Traffic Association, Inc.

II.

That the purposes for which this corporation is formed are:

(a) To furnish shippers service of every kind and nature to the members of the association, and to render help and assistance in all matters appertaining to traffic problems of all kinds, and matters arising out of the preparation, inspection, sale and shipment of merchandise and commodities of whatsoever nature.

(b) To own, lease, purchase, hold and have, use and take possession of and enjoy, in fee, real or personal property necessary for the uses and purposes of the corporation, and to sell, lease, alien or dispose of the same at the pleasure of the corporation, and for the uses and purposes for which the corporation is formed.

(c) Pecuniary profit to the corporation or its members is not the object of this corporation, and no pecuniary gain or profit is contemplated.

III.

That the existence of this corporation is fifty (50) years.



(Testimony of C. R. Holden.)

#### IV.

That the number of directors of said corporation shall be seven (7).

#### V.

That the registered office of said corporation in the State of Idaho shall be located at Idaho Falls, in the County of Bonneville, State of *of* Idaho; and that the postoffice address of the registered office of said corporation in the State of Idaho is Idaho Falls, Idaho.

#### VI.

Corporations, associations, co-partnerships, as well as persons, may become members of this association. There shall be one class of membership in the association. All members of the association shall have equal rights therein and shall be permitted to take part in the deliberations of the Association, shall be entitled to vote on matters coming before the association and to hold office. This corporation shall not issue any capital stock, but shall issue membership certificates to each member thereof, which certificates cannot be assigned without the consent of the Board of Directors and under such rules and regulations as may be prescribed by the by-laws.

#### VII.

The by-laws of this corporation may, in addition to the other provisions prescribed by law, provide: (a) the number and qualifications of members and the terms and conditions of admission; (b) the time, mode, conditions and effect of expulsion or

(Testimony of C. R. Holden.)

withdrawal from, and of restoration to membership; (c) fees for admission, assessments or dues to carry on the business of the corporation, and reimbursement for services rendered and expenses incurred by the corporation for its members, the time of payment and manner of collecting amounts due and for forfeiture of the interest of a member in the association for non-payment thereof; (d) other regulations not repugnant to the laws of the state and consonant with the objects of the association.

### VIII.

The By-Laws of the corporation shall be adopted by the Board of Directors elected by members of said corporation and may be thereafter amended or repealed by a majority vote of all the membership.

### IX.

That the following are the names of the members and their respective addresses, who have subscribed to these Articles of Incorporation:

Name	Address
A. G. Stanger	Idaho Falls, Idaho
Chris Christensen	Shelley, Idaho
J. E. O'Neil	Idaho Falls

In Witness Whereof, We have hereunto set our hands and seals this 2nd. day of December, 1941.

(Testimony of C. R. Holden.)

State of Idaho

County of Bonneville—ss.

I do hereby certify that on this 2nd. day of December in the year 1941, before me, the undersigned Notary Public in and for said State of Idaho, personally appeared A. G. Stanger, Chris Christensen and J. E. O'Neil known to me to be the persons whose names are subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]

W. B. MINOR

Notary Public

Residing at: Idaho Falls,  
Idaho

My commission expires May  
9, 1943

21007

Articles of Incorporation of Idaho Traffic  
Association, Inc.

State of Idaho  
Department of State  
Secretary's Office  
Boise, Idaho

Approved, filed and admitted to the records of Articles of Incorporation of the State of Idaho and certificate issued this Fifth day of January, 1942 at 3:30 o'clock P. M.

(Testimony of C. R. Holden.)

Fees Paid

Filing \$5.00

Recording 1.80

Certificate

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Total \$6.80

GEO. H. CURTIS,

Secretary of State

By AGNES DUNN,

Corporation Clerk

Recorded at the request of Henry S. Martin

January 7th, 1942 at 4:02 p. m.

Fee \$.50

Book 1 of Art. of Incorporation, Page I

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L. B. HOLDEN

called as a witness by and on behalf of the Board,  
being first duly sworn, was examined and testified  
as follows:

Direct Examination

Q. (Trial Examiner Barton) State your full  
name? A. L. B. Holden (spelling).

Q. (Mr. Penfield) Mr. Holden, are you a part-  
ner in L. S. Taube & Company? A. Yes sir.

Q. Does that name in the complaint, is it the cor-  
rect name of the partnership?

A. I believe it is. Will you read that over?

Mr. Babcock: It is L. S. Taube & Company, the

(Testimony of L. B. Holden.)

“and” being abbreviated and “company” being spelled out.

Q. (Mr. Penfield) When was that partnership formed?

A. I couldn't tell you without looking back, exactly when it was formed.

Q. Well, can you tell us approximately?

A. I believe it was the first part of 1941; I am not quite sure about the time.

Q. Where is its principal office?

A. Kansas City, Missouri.

Q. And does the partnership maintain any plants or offices in the Idaho Falls area? [75]

A. Yes. We have a plant here and we have a plant at Shelley, Idaho.

Q. Those are the only two in this area?

A. Yes.

Q. And what is the business of this partnership. I will limit my questions in this connection, Mr. Holden, to the business of these two plants in the Idaho Falls area?

A. Well, I would say originating potatoes and storing potatoes.

Q. Will you describe for us the manner in which you conduct this business?

A. Well, it is like all produce business. We buy them from the growers and also buy on the track from the other dealers and the potatoes from the dealers, when we pay for them and buy them on the outside, of course, they are packed and loaded by them and those that we buy in bulk we load

(Testimony of L. B. Holden.)

ourselves and the grower packs a certain percentage.

Q. Then as to the packing, as far as buying from the dealer is concerned you have nothing to do with that? A. No, just the loading sometimes.

Q. Insofar as you buy potatoes from growers will you describe just how these transactions with the growers are entered into?

A. Well, they are made mostly verbally by,— we don't have any contract that we use. And if a grower calls in and wants to sell or he calls in and possibly he wants us to send some- [76] one out to look at the potatoes and then if we will buy them sometimes we buy them and he will pack them and sometimes we will pack them and if he packs them he gets the raise in price by doing that and offsetting the price he would pay for packing and if we pack them they will offset that, or grade them in the cellar and that is all of course done on a price.

Q. So as far as the potatoes you pack is the particular price considered the net price you quote loaded in the car?

A. In some instances we do buy them loaded, especially on outside States, we have done that occasionally from growers and sometimes our buyers buy them loaded on the cars and we give the loaded price for them, plus the packing and sometimes he will even pay for the inspection himself, and sometimes we will pay for it.

Q. Well I mean how frequently do you purchase



(Testimony of L. B. Holden.)

in that manner as contrasted with purchasing in which you are doing all the packing?

A. Well, according to how the grower wants to sell. Some of them want to pack their own potatoes.

Q. Well, that wasn't my question, my question: it was more directed to what is the frequency, or what is the percentage that you purchase on the basis of your doing all the packing?

A. Well, it is according to the time of the season and it depends on many things. You take in the harvest time of course the growers don't have the time then to do much packing; [77] but as he gets on into the winter time then the growers may band together, four or five of the neighbors, and pack potatoes.

Trial Examiner Barton: Well as to the centering of the season as a whole, would you say that during that time 50 per cent of the potatoes you buy from the growers they pack their own potatoes?

The Witness: No, not that high.

Trial Examiner Barton: How high would you say?

The Witness: Off-hand, oh, 15-20 per cent.

Q. (Mr. Penfield) Does the partnership grow any potatoes?

A. Well we used to. We don't at this time.

Q. You do not. Did you last year?

A. No, we didn't.

(Testimony of L. B. Holden.)

Q. Then all the potatoes that you pack will be produced or grown by some grower in the vicinity?

A. Yes.

Q. Will you describe for us the type of crews which you employ and the duties performed by these different types of crews you employe?

A. Well, we employ about the same type of crews that all other dealers do. About so many men to the crew.

Q. About how many men in the crew?

A. Well, we vary of course, according to the size of the cellar there is and what sized equipment we can get into the cellar. Some of them cellars are very small and we have to put in a very small sorter sometimes. [78]

Q. Then do you use 5 or 6 men?

A. Yes, sometimes go as high as 9 or 10 men, depending on as I say.

Q. Do you send your own equipment out?

A. Yes, we do, but practically all potato growers have got equipment of their own years ago.

Q. How many crews do you have in the respective plants in Idaho Falls and Shelley, Idaho?

A. Well it depends, as I say, it is according to the time of the season and the crop and many things. At this time it is getting very slow, of course, because right after the harvest at this time we had in the plant 2 to 4 men crews in this part, —not in the plant, but we used there and out the 2 to 4 men crews in this part of the country and generally 3 to 4.

(Testimony of L. B. Holden.)

Q. Now, are those crews sent out from your plants on assignment to the different cellars to work?

A. Well sometimes. Sometimes the growers will call in to have them help out, get someone to make up a crew for them from one of those men, and it's depending on who is working for them if they need more experienced or better help, but they have their own crews.

Q. Who pays those men?

A. Well, depending upon how the potatoes are bought. If we buy them in the cellar we pay the expenses or if we buy them packed or loaded then they pay the expenses. [79]

Q. Well let's limit our questions and answers to the type of transactions in which you buy the potatoes, with the understanding that you are to pay all of the expenses of the packing; then am I correct then in saying that you pay all of the expenses of the crews, no matter how they are paid?

A. Not necessarily, no, not if the grower pays them, if he pays that expense.

Q. No, I was attempting to limit it to the situation where you were doing the packing; you were doing the packing and sending out the country crew and in those instances do you pay the expenses of the crews, pay their wages?

A. Well I would say that most of the time we do, however, there is times when we run potatoes up to the growers and leave them in the cellar till he wants to sell them, maybe doesn't want to do it then if the boys are busy.

(Testimony of L. B. Holden.)

Q. Well who would pay the wages?

A. Well there are times when we would pay the wages and there are some times when he would pay the wages, when the growers pays them. If he sells them to some other dealer then he does but if he sells them to us at some other date later then he does or we just deduct them.

Q. But as this work is done, I mean, there are workers actually performing this work and that work has to be paid for at the time of the work and who pays for that?

A. If the grower doesn't we do. [80]

Q. Well you pay them then?

A. Well, if the grower doesn't we do. We don't in the case the grower pays them, because he gets that much more for his potatoes when he sells them then.

Q. Now, these country crews are regularly being sent out from your plants, is that correct?

A. Well, if we have the work for them to to do. If the growers are selling so that we would have some place for them to go.

Q. Well when you receive an order from the grower that he has some potatoes to pack, the understanding is that you will send out a crew, is that correct?

A. Well not every time. We will send these men out if he wants them to pack them.

Q. Well I am trying to limit this to the understanding you will do the packing, isn't that right?

A. Well yes.

(Testimony of L. B. Holden.)

Q. And those crews are sent out from your plant on those occasions? A. Yes.

Q. And do you transport them to the place where they will work and back? A. Yes.

Q. And at the conclusion of the day will they return to your warehouse? [81]

A. Well depending on which district they are coming from, if they are coming by their home on the way in they will stop off there, or if they are coming through town, or wherever they might be coming from, some packing place, and maybe not going through town.

Q. And if the job is completed they will be taken to the warehouse?

A. Unless they are coming by their place and it is after they are on the way home they could be dropped off; they could you know.

Trial Examiner Barton: How are these men put on a job; are they told at the warehouse to go out at this place, to a certain job?

The Witness: Well, there might be they would have a job in some cellar, if a grower wants them to come over. Lots of times in a neighborhood if they are packing one grower's cellar there will be three or four and they will band together and take one right after another and do their own and there will be times one grower will tell them, when he has the crew, that he has sold and he wants them to come over there but they will tell them every night generally so they will know where they are going the next morning.

(Testimony of L. B. Holden.)

Trial Examiner Barton: Is that the common practice for the grower each night to tell them where they are going the next day?

The Witness: Well, not necessarily. In fact, if they [82] should finish the cellar that night and haven't any place to go we try to keep some work ahead for them to work on.

Trial Examiner Barton: There are times when they are not assigned any work for the next day, is that correct?

The Witness: At times when, they are not assigned work for the next day, yes; like in cold weather or where the growers don't want to sell.

Trial Examiner Barton: What do you do, do you telephone back to the various men or how do you get in touch with them when you want them?

The Witness: Most of them have no phone.

Trial Examiner Barton: Well how do you contact them then?

The Witness: Well most of the time we tell them to come back or if they have nothing to do they will come back anyway and come around, to see.

Trial Examiner Barton: Suppose you need some of the crew members, what is your method of communication?

The Witness: Well as a rule we just get in a car and go after them because there is no percentage of them that has phones.

Q. (Mr. Penfield) Mr. Holden, are you the manager of both the Idaho Falls and the Shelley operations? A. In Idaho, yes.



(Testimony of L. B. Holden.)

Q. Do you have a foreman? A. Yes. [83]

Q. And who is that foreman?

A. Well I have a foreman at Idaho Falls here and at Shelley also.

Q. And what are the names of those foremen?

A. My foreman at Idaho Falls is Art Levin and my manager at Shelley is Leland Wright.

Q. And did you say who your foreman was at Idaho Falls?

A. Yes. Art Levin is the foreman here.

Q. In Idaho Falls? A. Yes.

Q. Who was your foreman last year?

A. Carl Metcalf.

Q. Now, do these foremen hire the employees on the country crew?

A. Yes. They hire the employees, yes.

Q. Do you also have a warehouse crew?

A. Well, not necessarily. If we have work to do in the country and not in the warehouse then the men go to the country to work.

Q. Will you contrast for us the type of work done by the country crew and the warehouse crew?

A. Well yes. They have to make the grade, U. S. Grade No. 1 or U. S. Grade No. 2 in the country the same as they do in the warehouse. Our potatoes are all sorted and bought on grades. They are times when they are dirty or roughed up, [84] roughed over, and but they are brought in, and then as soon as prices are a little higher then the growers are all inclined to sell them in the cellar and it is all about the same.

(Testimony of L. B. Holden.)

Q. Am I correct then to say that in some instances your country crews will do the grading and sorting and the packing and then the potatoes will be directly placed in,—

A. (Interposing) Yes, that's right.

Q. While in other instances they may just sort out the culls and then the potatoes that are ungraded will be brought into the warehouse?

A. They generally sort out the number two's and the culls and bring in the number one's, those in that grade.

Q. And then they will go through the washer, those potatoes, in the warehouse and before selling?

A. Well, some of them will go through the washer and we will sell them and then some of them we run dry at the warehouse and at the celars on the farms.

Q. But in those instances where they are brought in to the warehouse they will be run through a grader in the warehouse, is that right?

A. Yes.

Q. And will that work on the grader be substantially the same as the country crews?

A. Well, a lot faster of course, because they will grade them up out there to where they are practically all one's at that time. [85]

One small warehouse crew can take care of two or three country crews you understand by having the facilities.

Q. But the type of work that they do is about the same? A. Yes.

(Testimony of L. B. Holden.)

Trial Examiner Barton: Well I want to be sure about something. I understand,—so I understand the situation, now is it true that sometimes the potatoes will be sorted and graded in the country and brought right in from there and placed in the cars for shipment?

The Witness: Yes sir. Most all of our dry packing is that way.

Trial Examiner Barton: Who transports them from the country to the railroad line in the city or town?

The Witness: Well it depends on how they are bought. If the grower has a truck and he wants to sell and truck them in himself to make that extra money he does that or if he has anybody that is a neighbor with a truck they sometimes do it.

Trial Examiner Barton: Does the partnership have any trucks?

The Witness: Yes, we have trucks.

Trial Examiner Barton: Now in other instances the potatoes are brought from the country to the warehouse and the sorting and grading and packing is done at the warehouse, is that correct?

The Witness: It works both ways. According to how the growers sell. This season they all want to sell and have them [86] packed in the farmers' cellars.

Trial Examiner Barton: Where they are brought into the warehouse for sorting and packing, do you customarily haul them from the cellar?

(Testimony of L. B. Holden.)

The Witness: Well if the farmer or grower has a truck of his own or a neighbor's, they will bring them in, and when they are brought here then he will get the price at the warehouse and will make that difference in hauling them himself.

Trial Examiner Barton: Well then sometimes you haul them and sometimes you don't, the grower hauls them, is that correct?

The Witness: Yes.

Trial Examiner Barton: All right.

Q. (Mr. Penfield) Now did I understand you to say that your foreman has supervision over all of your employees, both in the country and in the warehouse?

A. As a rule he does have, yes sir. Of course, we have a foreman that goes out with the crews, that is, the crew foreman.

Q. Yes. Now, what are the duties of these crew foremen? A. What?

Q. What are the duties of these crew foremen?

A. Well as a rule they are a man, men that can make the grade and be more or less supervisory making the grade, knowing the grade. [87]

Q. He is usually the chief grader then, he knows the grades of potatoes?

A. Well he knows, yes.

Q. And he does the work, working himself?

A. Well he maybe wouldn't be a better man *that* some of the others, but he would more or less take care of the equipment and be responsible.

(Testimony of L. B. Holden.)

Q. He does not have anything to do with the hiring and firing of the members of the crews?

A. Well he could have, if he had someone that couldn't do the work or wasn't doing the work, he could send him in, send word in to the warehouse if he had someone that was not satisfactory.

Q. But it would go through the foreman who stays at the warehouse?      A. Possibly so, yes.

Q. You have someone called a buyer?

A. Yes.

Q. And what does that buyer do?

A. Well, he was to,—he has different duties to perform. If he has any extra time he can build cars and unload cars outside maybe, or go on inspection on cars from those bought of other dealers and also buy from the growers or from other dealers.

Q. Does he go out to the cellars and inspect?

[88]

A. Yes.

Q. Does he direct any of the workers?

A. Yes, if there is something that needs to be, if there,—if you have to change cellars he may take word out; or he may help them change or help move.

Q. Does he actually make the purchases, the arrangements with the farmers?

A. Well, not all the time. Sometimes the growers will come in and sell at the office or call up.

Q. But he does do that?

A. He does do a certain,—to a certain extent, yes; a certain percentage of it.

(Testimony of L. B. Holden.)

Q. Is he a confidential employe of the company?

A. Well I don't know what you mean by confidential?

Q. Well does he have,——

A. (Interposing) He helps the crews and checks them to see that the grade is made correctly.

Q. He works in the office to a considerable degree too, does he?

A. Not very much. He is in and out. He has to inspect cars occasionally, but he is not in the office as much as he is outside.

Q. Is there,—I believe you stated that you are the manager of both the Shelley and the Idaho Falls plants?

A. Well, I have a manager down there at Shelley, and I get [89] down there very seldom, but I am responsible of course, as far as getting the stuff out. But anything comes up I take it up with the manager of the plant.

Q. Is there an interchange of employees back and forth between the two plants?

A. Well there is at times, but not very often. When there might be work at one place and none at the other we might have a need for them. We don't have a need for them very often. But if we are in need, if we can use help and use the boys we give them the transportation there.

Q. How far away is Shelley?

A. About eight miles, I believe.



(Testimony of L. B. Holden.)

Q. At the opening of a new season and Fall does the company make it a practice to re-employ those workers who had been employed during the previous year?

A. Well it is almost impossible to do that because so many of them don't come back.

Q. Well I don't mean that, but I mean if they don't report back do you send for them?

A. If they report and if they are capable men we do, yes.

Q. Well, do you send for them, to get back the men you had on your crews previously or get them back on the crews if possible?

A. Well, if we can locate them, yes.

Q. Do you have any practice with respect to notifying them [90] when your season opens?

A. Well they have,—as a rule they come over when the season opens or, they know about what time to come, when they are going to open the season of course. Most of them are moving around from place to place and living on the farms in the winter time and a good many of them do that and come in in the spring and work as a summer crew or some of them move into town.

Q. Do you ever write or phone to them?

A. No, most of them don't have phones and we don't have a record of their addresses.

Trial Examiner Barton: In what period of the year is sorting done in the farmers' cellars?

The Witness: Well I would say from, as a rule, October first. All these potatoes, as a rule, have to

(Testimony of L. B. Holden.)

go in the cellar or in storage. Most of them are in the country and as soon as they are put away they are generally checked or packed in October and some of them go on, it goes on till about to the first of May or the first of June till it is cleared up.

Trial Examiner Barton: And your sorting in the warehouse?

The Witness: It would be about the same. There would be days that we don't pack in the warehouse at all when we pack at the farmers. We find it is cheaper to sort them at the farmers, at their cellars.

Q. (Mr. Penfield) Did you hear Mr. Holden testify in [91] regard to the length of the season and the periods of greatest activity?

A. Well I wouldn't,—I would say that our operation would be possibly heavy from the time the deal starts some time in September until the harvest is over and then we generally get a lull after the harvest until some time after November, then they start to sell again around the middle of December to January. The middle of September is when we started.

Q. Would you give us the classifications of the employees that you have on the cellar crew and describe for us the type of work each one of them does?

A. Well, we really don't classify our men, only with the exception of our crew foreman on the country crew.

Q. Well aren't there,——

(Testimony of L. B. Holden.)

A. (Interposing) And he would get,—we generally pay him a nickel more an hour than we do the rest of the men.

Q. And, well I didn't necessarily mean with respect to what you paid, I suppose there is a certain classification or differentiation as to the classification of work they do; I wonder if you could tell us that?

A. Well of course when you are running a machine, you have the man who puts them in the hopper.

Q. What do you call him?

A. Well, you could call him the scooper or the dumper. I would say scooper possibly, and then you will have your grader man on the side and then up in front, up front of the machine [92] you will have the man that packs them.

Q. What is he called?

A. Well, I don't know; I guess he is a packer.

Q. Don't you have somebody that jigs them or packs them in sacks?

A. Well that is what he does, *is* it goes in the sacks he takes the sacks off and puts on empties; fills them and then there is a sewer and then you have a man on the side who pulls the culls off.

Trial Examiner Barton: You have a machine there?

The Witness: Yes, sorting.

Trial Examiner Barton: And you take that with you from farm to farm to do the grading or sorting?

The Witness: Yes. And, in fact, most of the

(Testimony of L. B. Holden.)

cellars are in the ground and we back the machine up the, that cellar to do the work.

Trial Examiner Barton: Most of the farmers, or some of the farmers you say have machines?

The Witness: Yes. There are quite a number of them have machines of their own.

Q. (Mr. Penfield) What is the number of classifications whose type of work is done in the warehouse is there that differ?

A. It's about the same.

Q. You do have some carloaders do you? [93]

A. Well, yes, you would have a man. However, you would have to take them away from the machine and load them, yes. And then you might have an extra man to help clean up and help the crews unload or something like that.

Q. Does the country crew load the sacks on to the trucks? A. As a rule he does.

Q. Does the whole crew assist in that?

A. Well as a general rule if you have a whole crew it is cheaper to load without an extra man, but as a rule the whole crew does the loading.

Q. They will load or a farmer's crew does the loading?

A. Yes. It is customarily the practice for one of the crew or all of the crew to help.

#### Cross-Examination

By Mr. Weston:

Q. Lloyd, can you tell us how much control if any the farmer has over,—when these crews are out

(Testimony of L. B. Holden.)

working at the farmer's, whether directly or indirectly?

A. I would say one hundred per cent as to staying on, as if the potatoes are not sorted to his satisfaction or his way of [94] thinking; I don't know what the general practice is, but he will put him out or he will call up and have someone else called out; that farmer may do that. May be the grower who was thinking or thought it was not a fair grade and something was going in that should come out and he would call up the office and say to send out certain ones or take this crew out entirely.

Q. He really runs the show then?

A. Oh yes. These potatoes are bought, that is, as U.S. Grade No. 1 and if we miss the grade we call the grower up and he will come in and he hasn't paid until they are all number one grade.

Q. With reference to when you close in the Spring, are these employees working for you given any assurance that they are to be hired again in the Fall?

A. No assurance, no sir.

Q. Could you give me an estimate at this time of how many of your crew worked for you in February 1942?

A. No sir. I wouldn't know, but, oh, I don't believe there is over half of them, maybe not that many, because there is a lot of them in the armed forces and scattered in the defense plants and most of them never showed up this Fall. [95]

(Testimony of L. B. Holden.)

Redirect Examination

By Mr. Penfield:

Q. In connection with the farmer being in the cellar, he merely looks over the potatoes as they are going through?

A. That is it; as they are graded.

Q. And he doesn't actually exercise any supervision over the workers?

A. Well he has, if they don't grade to suit him, he don't get his potatoes graded satisfactorily, he gets someone else; that is the general practice since I have *been Idaho*.

Q. Well he generally makes his complaint to the office, doesn't he?

A. Well, to the office, or he makes it to the employees sometimes. Sometimes he will call up and say that he is not satisfied and we will buy in the cellar with the understanding that if they are dirty they can be checked and we will possibly have to change the deal later.

Q. He doesn't actually fire any of them, of the workers; he may just ask for another man and you will send out another man to satisfy him and put that man on another crew maybe?

A. No, that isn't the rule. If he is not satisfied he will stop the crew possibly and tell somebody about it and wait until somebody gets out there to straighten them out and if the boys are grading *to* high and the potatoes are too dirty he comes in to talk it over. But as a rule in the past the grower is [96] owner of the potatoes till they leave the



(Testimony of L. B. Holden.)

cellar and lots of times till they put them on the cars and when they have to be at such a price he takes a loss on the potatoes, like when they are dirty or wormy this runs into a good many dollars.

Q. Are there many of the potato growers that watch the graders?

A. Very few. They don't want to have them graded or sorted, or they don't want you to come in there unless they are there to watch.

Q. Most of the time there is very little complaint on the grading?

A. Well sometimes, it depends on the season and what we have to work on.

Q. But in the majority there aren't?

A. Well, lots of times we do have. Then, the growers sometimes have a condition of decay of the potatoes or wire worm and, that he didn't realize he had in the cellar.

Recross Examination [97]

Trial Examiner Barton: Well let's get at it in this way: What does the farmer normally do while the crew is on his premises at work?

The Witness: He is normally in the cellar and around the place and as a rule the grower,—if we are going now to a cellar we will generally let the grower know we are going to be there at a certain time and if he happens to be, if he is going to a sale or going to town he will want to wait till he can be there.

Trial Examiner Barton: How does the conduct

(Testimony of L. B. Holden.)

of the crew differ while under the foreman or under the farmer?

The Witness: Well the foreman is there to take care of the equipment and we believe,—to see that the grade is made. You mean the man at the sorting?

Trial Examiner Barton: Yes. [98]

The Witness: Well, it's been a practice in all districts since I have been in Idaho that any time the grower isn't satisfied he can put the crew out of his cellar and that has been the general practice.

Q. (Mr. Weston) And to that extent he does control the, have control over the crew?

A. As far as the growers' status, yes.

Q. Do you know how many farmers or how many employees or farm boys working on the farms work on these same potato, who plant and harvest the potatoes for the company?

Mr. Weston: Well this is *there* witness Mr. Examiner. We are just trying to establish whether agricultural employees were used here; certainly I can find out whether or what crew worked there and they were brought back and forth,—

Mr. Penfield: (Interposing) That is not the issue. It is as to what the employees of Taube company do.

Mr. Weston: That is the question, if you had been listening you would have heard the question, I said the company. At whose,—

Mr. Penfield: That is what I thought that was

(Testimony of L. B. Holden.)

what you said and I object to it, it is wholly immaterial.

Trial Examiner Barton: Oh, I will let him answer the question. [99]

A. Well, I would say a large percentage of them do help on the farm and some in the harvest.

Q. So that a large percentage of them do work?

A. I couldn't say what the percentage was, but we will have a lot of them as soon as the beets are in and harvested and they will come in; we had a lot this year, or last year.

Q. They help plant and help harvest?

A. They will help harvest and put them in the cellars and come back and help us.

Q. And when you are packing they will go back, —when you are through,—they will go back to the farm? A. Yes.

Trial Examiner Barton: Who pays these crews when they are working on the farmer's cellar?

The Witness: Well it is according to the way it is bought. We haven't bought any on contract, except verbally, and it has been our practice to have a sort of combined contract, that is, there are times when we will buy them at the growers and if we do that he pays his own crew and if we buy them at the warehouse we pay the crew, or we can pay the crew.

Trial Examiner Barton: Well how is that done?

The Witness: Well I don't know, but I suppose that lots of times the neighbors around there will pitch in and come in and help each other.

(Testimony of L. B. Holden.)

Trial Examiner Barton: But I,—when you are doing the sorting for the farmers who pays the crew? [100]

The Witness: Yes, we pay the crew. There are times though that he has paid the crew and *he if* wanted to hold his potatoes any length of time he would have the right to sell them to any other dealer.

Trial Examiner Barton: In other words, there are times when the farmer pays the crew that you send out from the warehouse, is there?

The Witness: There are times, yes.

Trial Examiner Barton: But that is unusual?

The Witness: Yes.

Trial Examiner Barton: Are these crews normally paid at the end of the day or the end of the week?

The Witness: We generally figure it to on Thursday night and that is up until Thursday night and paid on Friday, so they will have their checks on Saturday.

Q. (Mr. Weston) In case the potatoes are poor run is there more work on the farm so that the farmer has to pay more for packing?

A. I didn't get that.

Q. In case the potatoes are poor runs is there more work on the farm; does the farmer have to pay more for the packing then?

A. Yes, it would be taken out. He would get less money for his potatoes then. [101]

Q. That is net? A. Yes, net.

(Testimony of L. B. Holden.)

Q. In other words, the farmer in the final analysis pays the crew for the packing?

A. Yes.

Q. Is that an exact charge for the particular amount in his particular packing, in each instance?

A. Well, a good pack will sell for more than a poor pack.

Q. And the labor makes the difference?

A. Yes, the labor, and the sacks and the crops.

#### Redirect Examination

By Mr. Penfield:

Q. Mr. Holden, the fact of the matter is that when you are going to do the packing you agree on the price with the farmer, do you not, and that price includes the price of the labor?

A. That is,—if we buy them that way, yes.

Q. That is what I mean.

A. Yes, if we buy them we agree on a price, too.

[102]

Q. And the price that you have agreed upon would not be changed, regardless of how the,—or the type of work done in handling the potatoes, is that correct?

A. If they are bought where we pack them the price would be the same.

Q. Yes. [103]

FARREL L. HANSEN,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Barton: State your full name, please.

A. Farrel L. Hansen.

Trial Examiner Barton: How do you spell your first name, Mr. Hansen?

A. F-a-r-r-e-l.

Q. (By Mr. Babcock): You reside in Idaho Falls, Mr. Hansen, do you not?

A. Not right in town; I live on Route 5.

Q. What is your occupation?

A. I am manager of the Idaho Potato Growers.

Q. And how long have you held that position?

A. About five years.

Q. What is the true name of the association?

A. Idaho Potato Growers, Incorporated.

Q. Has there been any change in the name recently? A. Yes, sir.

Q. When was that?

A. Oh, this spring some time, or early summer, —I can't remember the exact date.

Q. Was that done by amendment to the articles?

[104]

A. Yes, sir.

Q. Prior to that time the name was "Idaho Falls Potato Growers Association?" A. Yes, sir.

Q. What are your duties as manager of the association?



(Testimony of Farrel L. Hansen.)

A. Well, I have general supervision, general management of all of the details incident to the conducting of the business.

Q. Who are the officers of the association?

A. Oh, Mr. Anton Poitevin is president,—

Q. Probably you had better spell that.

A. A-n-t-o-n P-o-i-t-e-v-i-n. Leo Murdock is vice president; Fred Gustafson is secretary-treasurer.

Q. And who are the directors?

A. Mr. E. S. Trask is a director; Monte Carlson is a director; Wesley Huntsman is a director; and Roy Marquess is a director. [105]

Q. Is this correct: That Poiteven was president; Murdock was vice-president and Gustafson, secretary and treasurer, as well as being directors, in January, February and March of this year?

A. I think that is right.

Q. No change in those? A. No, sir [106]

Q. Is it also true that Carlson and Trask were directors at that time? A. Yes, sir.

Q. Is the association a cooperative association of farmers? A. Yes, sir.

Q. Do the farmer members have an equal vote in the meetings? A. Yes, sir.

Q. An equal interest, so far as their stock is concerned? A. Yes, sir.

Q. How often do you hold meetings of the membership?

A. One annual meeting,—that is provided for in the by-laws. In addition to the annual meeting, any

(Testimony of Farrel L. Hansen.)

other number of meetings are subject to call of the president or the board of directors, or the members themselves.

Q. Have you had any special meetings,—meetings that were called, from time to time?

A. Yes; at various times.

Q. How often do the directors meet?

A. Once a month we have a regular directors' meeting. It is provided that they meet once a month.

Q. And do the officers meet any more frequently than that?

A. Well, again, that is subject to the necessities, according to the requirements of the business involved, in question [107]

Q. Now, the association buys potatoes, or receives potatoes from its members, is that correct?

A. That is not correct. We do not buy potatoes.

Q. Do you receive potatoes from members?

A. We handle them for members.

Q. Does the association, through its employees, receive potatoes of the members in the cellars and sort them and handle them?

A. It depends on what interpretation you put on "receive." We virtually don't receive anything; we market potatoes for the farmers.

Q. I understand that, but they are handled by the employees of the association?

A. That is right.

Q. In addition to these potatoes, do you handle potatoes you purchase from other growers not members of the association?

(Testimony of Farrel L. Hansen.)

A. We do not purchase them; we handle them.

Q. Are they handled on the same basis as those of the members?      A. Yes, sir.

Q. In addition to those, do you buy any potatoes from other dealers in carload lots?

A. We don't. We handle those, also.

Q. Is it your testimony then that the method of handling [108] all of these potatoes is identical regardless of where they are secured?

A. Well, there is some differences in the labor or services performed, but when we handle,—or, say, we make a commitment on a car of potatoes from another dealer, those potatoes go through our organization on the same relative basis as any grower's potatoes.

Q. When you make such an arrangement do you agree with the dealer on the price he is to receive for the potatoes?

A. Yes, sir; just the same as we do with the growers.

Q. And that price is paid to the dealer?

A. Yes, sir.

Q. Is there any deduction or charges made to the dealer in that type of arrangement?

A. It depends on the incidents surrounding the transaction. In most cases the deductions are identical, when the price is arrived at.

Q. So that, in that case the transaction amounts to the same as an outright purchase by the association of the potatoes of the dealer?

A. Well, no; there is a little difference.

(Testimony of Farrel L. Hansen.)

Q. What is the difference?

A. In the cooperative arrangement, and the co-operative method of handling merchandise there is an over all participation in the activities, in the proceeds, or the losses [109] incident to a marketing operation. In our operations I, myself, am nothing more or less than a hired man of the farmer, or whoever uses the services which our organization provides. There are certain estimated revenues or retains made by the board of directors to cover the expenses incident to our marketing operations. At the end of the season if our retains are not all used, then any credits remaining are pro-rated back to everyone, including dealers.

Q. To everyone whose potatoes you handle?

A. Absolutely. They get a proportionate refund, or a per hundredweight credit at the end of the season.

Q. Let's discuss the nature of the arrangement between you and the members of the association whose potatoes you handle.

A. O. K.

Q. Do you have any agreement with those members under which they are obligated to sell all of their potatoes to the association?

A. No, we don't cover that.

Q. Do you enter into any sort of a written agreement of purchase, or marketing agreement with the members?

A. We have a membership contract between the association and the members; yes. [110]

Q. Do you enter into any kind of a written agree-

(Testimony of Farrel L. Hansen.)

ment at the time you handle his potatoes, at the time his potatoes are sent to the warehouse?

A. No, sir.

Q. What is the nature of the arrangement that is worked out at that time?

A. Well, it is verbal. Through contacts with the buying trade we receive offers on potatoes, and those offers are transmitted to the growers for their acceptance or refusal.

Q. How are they transmitted?

A. By word of mouth.

Q. At the time the association discusses with the grower the manner of handling his potatoes is the price he is to receive agreed upon?

A. It is estimated.

Q. It is estimated? A. Yes, sir.

Q. Which would be the ordinary market price less costs? [111]

A. Approximately so; yes.

Q. At that time do you immediately undertake to handle his potatoes? A. Yes, sir.

Q. And is the same arrangement true as to non members? A. Yes, sir.

Q. Any difference there at all?

A. Practically none; no. It goes through the same procedure.

Q. Then at that time do you send sorting crews to the cellar to sort and handle the potatoes?

A. In some instances; yes.

Q. In what instances don't you do that?

(Testimony of Farrel L. Hansen.)

A. It depends on what the farmer himself wants to do. In other words, they are his potatoes, and I am working for him, just like anybody else, and if he wants to sort those potatoes himself, well, he gets the order and loads them on the car. If he wants me to rustle his crew for him and send them out to his farm, I do that. If he wants to pay for them with his own check, he can do that, or if he wants me to deduct it out of the potatoes and pay them, I do that.

Q. You agree at the time how they are going to be handled, whether he is going to pack them and ship them and handle them, or whether your crew is going to handle them?      A. That is right [112]

Q. Or it is agreed that your crew is going to do it?

A. What do you mean by "my crew?"

Q. The crew of the farmers' association?

A. That is correct.

Q. In most instances that is the way it is actually handled, isn't that correct, in a great majority of the cases?

A. I wouldn't say a great majority of the cases. We have quite a wide variation in the actual occurrence of our marketing or grading operations. We have the farmer helping from furnishing one man to the whole crew. In some instances the farmers don't have anything to do with it; they turn it all over to my management.

Q. That would be in the great majority of cases?

A. I would say not the great majority of cases.



(Testimony of Farrel L. Hansen.)

The growers themselves would participate in and of themselves in most cases.

Q. What do you mean by "participate?" Actually help with the sorting? A. Yes, sir.

Q. The farmer himself?

A. The farmer himself, or the farmer's hired man, or trading help, one farmer with another. Very, very few farmers in the cellar that don't at least furnish one man or himself, on the crew.

Q. You mean by that they are present in the cellar to [113] watch the work being done, or do they actually participate in the work?

A. Actually participate in the work.

Q. In that instance you pay that particular person, whether it is the person himself, or the hired hand? A. He pays himself.

Q. How is the bookkeeping handled so that proper credit is made on that?

A. We just send him the number of men he thinks he needs to get the job done.

Q. And charge him for that labor?

A. And we deduct from his settlement the wages of the boys that he doesn't pay. I have had many cases where crews, entire crews have gone out from the warehouse where the farmer paid it all, with his own check.

Q. The work done in the cellar on the potatoes by the sorting crew is substantially as described by Mr. Tauby in respect to his operations?

A. Well, I think it would be; yes, as I got his testimony.

(Testimony of Farrel L. Hansen.)

Q. Is there a rough sort, or a scalp sort sometimes made? A. Yes, sir.

Q. What does "scalp" mean?

A. That is an operation in a farmer's cellar at which time the grade of U. S. No. 1 or U. S. No. 2 is not made. It is more of a hurried pack, and all of the culls are not taken [114] out, and a complete separation of the No 1's and No. 2's are not made.

Q. In those cases there would be further sorting made in the warehouse later?

A. That is correct.

Q. How often does that happen, that is, that there is scalp sorting made?

A. That varies considerably. In some cases it is a majority, and in other cases it would be a minority of times. It depends on the season, and on the demand, and then the particular growers you might be dealing with.

Q. In other cases there is a more careful sorting made of the No. 1's and 2's, and the culls removed, is that correct?

A. You are speaking now of in the country?

Q. In the country; in the cellar of the farmer?

A. That is correct.

Q. In those instances, sometimes the potatoes are taken directly from the cellar to the cars and shipped, is that correct? A. That is correct.

Q. Or to the warehouse for storage?

A. That is correct.

Q. Before shipment?

A. That is correct. [115]

(Testimony of Farrel L. Hansen.)

Q. In other words, in some instances there is a washing process in the warehouse and a further sorting?

A. That is correct.

Q. Are you able to estimate the percentage of the potatoes shipped by your association during the last season which were washed in terms of one hundred pounds by weight?

A. Well, it would be a guess. It would take a lot of study to go through our records to make an accurate determination in that respect.

Trial Examiner Barton: Can you approximate it?

A. Yes; I believe I could approximate it as fifty per cent.

Q. Isn't it true there has been quite a big point made by the shippers of the Idaho Falls potatoes because in many cases they are washed? Isn't that a selling point for potatoes in this area?

A. Not to my knowledge. I think with washing they are inferior.

Q. Is that true?

A. To my positive information they are inferior if they are washed.

Q. How many plants or warehouses does your association operate, Mr. Hansen?

A. Four.

Q. And in addition to the ones at Idaho Falls and Shelley where are the others located? [116]

A. At Blackfoot and at Burley.

Q. And where is Burley from Idaho Falls?

A. About one hundred thirty-five miles, southwest.

(Testimony of Farrel L. Hansen.)

Q. And approximately how far is Blackfoot from Idaho Falls?

A. About twenty-five miles south.

Q. Are all of these plants under your supervision?

A. Yes, sir.

Q. You have local managers, or superintendents, in the plants?

A. Yes, sir.

Q. You exercise a more direct control over the Shelley and Idaho Falls plants than the other two, do you not?

A. No, sir.

Q. Where do you spend most of your time?

A. In Idaho Falls.

Q. And do you personally take part in the operation of the warehouse at Idaho Falls?

A. Well, in a supervisory way; yes. My time is devoted to selling. I sell merchandise, sell potatoes; I answer wires and correspondence for all four branches, and the details incident to the warehouse operations necessarily have to be taken care of by someone else. I have full and over-all supervision. Naturally that comes under my direction.

Q. Who is the foreman at the Idaho Falls warehouse? [117]

A. Mr. Strong, Mr. N. G. Strong.

Q. Does he also act as buyer? Did he at one time?

A. We don't have any buyers; he is field man.

Q. Field man. Mr. Forman is also employed in the Idaho Falls warehouse?

A. No, sir.

Q. He was employed last season?

A. Yes, sir.

(Testimony of Farrel L. Hansen.)

Q. What was his position?

A. He was foreman of the Idaho Falls warehouse.

Trial Examiner Barton: What was his name?

A. Fred Forman.

Q. F-o-r-m-a-n? A. Yes, sir.

Q. How many crews, cellar crews, do you operate at the Idaho Falls plant?

A. That varies a great deal.

Q. What is the range?

A. From one to eight.

Q. What about the Shelley plant?

A. Well, from one to three.

Q. Do you interchange employees between Idaho Falls and Shelley?

A. Occasionally, but not often.

Q. What was the name of the foreman in the Shelley operation last year?

A. Paul Blalock.

Q. To continue further with the arrangement between the farmer and the association, will you explain just in what respects it differs, if any, from the type of arrangement that exists with private shippers,—the ordinary shipper?

A. Well, I would say that the difference basically is that the cooperative is strictly non-profit. When you analyze that you must necessarily realize that any accumulated credit or excess retained that is taken for services performed must be pro-rated back to the growers at the end of the season. That is what is done. I think, basically, that is the difference

(Testimony of Farrel L. Hansen.)

between a cooperative organization and a private enterprise.

Q. It makes settlement with the growers than at the end of the season, is that the situation?

A. Well, really final settlement is made at the **end of the season**. Prior to that time it is estimated settlement.

Q. The farmer,—the grower receives for his potatoes the price actually paid for them by the buyer, whoever it is, less the cost of labor in handling them and certain estimated overhead costs?

A. That is right. That is correct.

Q. Is that true of all types of packs? [119]

A. Yes, sir.

Q. What has been the practice of the association with respect to reemployment of employees on their cellar and warehouse crews from season to season? By that I mean, have you attempted to employ old workers so far as possible at the start of the season?

A. Yes; since I have been over there as manager I have taken quite a bit of pain in trying to build up a good personnel and employees' relations and *encourage* those who are qualified and capable to continue with the organization. That has been my policy.

Q. And have you had considerable continuity of crews there from season to season?

A. Up until last year he have had.

Q. It is true that this year there are some unusual factors which affect that problem which didn't exist before, is it not?

A. Yes, sir.



(Testimony of Farrel L. Hansen.)

Q. Such as war and development of defense works?

A. Well, I think,—at least I was told there were some cases where agents of war industries had sent a delegation up here to induce laborers from this area to go into defense work.

Q. What has been the experience of the association this year with respect to the percentage of their old employees [120] that returned?

A. Well, I would imagine, based upon previous years, twenty-five to thirty-five per cent.

Q. That is the percentage that has returned this year as compared with previous years, is that correct?      A. Yes, sir.

Q. And in previous years that percentage was substantially higher?      A. Yes, sir.

Q. How much higher, would you say?

A. Oh, it would double that, fifty to seventy-five per cent in other years.

Q. I was attempting to speak only of the Idaho Falls and Shelley warehouses. Is that a correct statement for those two warehouses?

A. I think that is true. However, that is an off-hand guess. I haven't gone into that in detail, but the war, the enlistments and the draft has taken a lot, and high wages in the defense areas have also attracted a lot of our best men until we have lost them, and we are having to substitute with women and less competent help. In fact, if they don't stop pretty soon, somebody is going to get hungry about next year and wonder where the food is coming from to feed the country.

(Testimony of Farrel L. Hansen.)

Q. The warehouse foreman has supervision over the country [121] crews as well as the warehouse crews? A. Yes, sir.

Q. Can you indicate the nature and extent of that supervision?

A. Well, just as any foreman would have. What, in detail, did you have in mind?

Q. Does he do hiring and firing for the country crews?

A. Yes, he could do that, but not exclusively however.

Q. Who else would participate in that?

A. I could.

Q. What about the country crew's foreman?

A. They could hire and fire.

Q. Is the work in your operations the same as Mr. Taube testified to in his testimony?

A. I believe it was, with the exception the men we put in charge of the country crew can hire and fire men.

Q. They can do it without consulting with you or with the warehouse foreman?

A. That is correct.

Q. They are generally the head grader man on the machine? A. Yes, sir.

Q. And they work with the men?

A. That is right. I might say that is not a customary occurrence, because, in fact, we don't have but very, very little turn-over in normal times, and if they have men who [122] are not competent, sometimes they will send him in with the truck and say,

(Testimony of Farrel L. Hansen.)

“See if you can’t use him in there someplace.” And if they have a chance to pick up a hired man in the country that is working for some farmer, they have done that in cases.

Q. They are responsible for the men on the crew to see that they do their work, and to report them if they don’t?

A. To a large extent, in connection with the farmer himself. I have found that the farmers take a very active interest in the performance of the men in their cellars.

Q. Just how frequently do you have complaints from farmers about the grading?

A. It depends on the crew. Some crews we don’t have any complaints about at all. Other crews we have constant complaints.

Q. How many complaints can you recall having been made this year?

A. Oh, we haven’t been in the country but about a week this year, so I don’t recall of a complaint that has been made.

Q. How many did you have last year?

A. Oh,—

Q. That you can recall?

A. We had quite a lot.

Q. In those cases the complaint is, I take it, that the [123] grading isn’t proper, is that right?

A. Or they feel that the men are not doing their share of the work. In other words, when you send a crew of men out it may be that you will get one that is inefficient, or careless, or does a lot of horse

(Testimony of Farrel L. Hansen.)

play, and that money comes right out of the farmer's pocket, and he is prone to criticize the balance of the crew.

Q. Ordinarily, isn't it true when a complaint is made to the crew foreman, or somebody in the office, first an attempt is made to work that out with the farmer and satisfy him?

A. That is what we do,—not only first, but last, too.

Q. And you can ordinarily do that, isn't that true?

A. Sometimes, when we get complaints too often, we have to switch men and transfer them from maybe one crew to another.

Q. How often does that happen?

A. Oh, I would say just intermittently. There is no specific time. You might run into a period of time when you get along just fine.

Q. How many times has it happened this year?

A. This year so far we haven't had it occur.

Q. How many men did you transfer last year at the request of any farmers?

A. That would be a very, very indefinite guess on my part. [124]

Q. Can you recall of any particular instances when it was necessary to do that?

A. I couldn't give you the dates of it, but it has been many times when that has occurred, when we transferred men.

A. As many as ten times last year?

A. No. One hundred and fifty times. In other

(Testimony of Farrel L. Hansen.)

words, we will get suggestions from the growers themselves as to how the men could be placed to better advantage. I have had,—I often get, and constantly get, suggestions from the growers as to how these crews could be better organized and handled.

Q. Can you give us the names of some of the employees who last year were transferred from one crew to another at the request of the farmers?

A. Not offhand; no.

Q. Did you have any instance last season when any employee was discharged at the request of a farmer?

A. I don't recall of one offhand. We try to avoid that, wherever possible.

Q. The farmer would have no power to discharge any member of a crew, is that correct?

A. I would say he did.

Q. He could himself tell a crew member he is through?

A. Yes, sir.

Q. But you don't recall of any occasion last year when [125] that happened?

A. Not specifically right now. I think there was a couple of times when they sent one or two back to town.

Q. And they were transferred to other crews?

A. Yes, sir.

Q. Not actually discharged?

A. No. But I don't think you understand the authority of the farmers in that organization. It belongs to them, and if they decided there was some-

(Testimony of Farrel L. Hansen.)

body there that didn't belong there, they would have the authority to,—[126]

Q. The individual employee, it is very seldom a farmer insists on an individual employee being removed from the crew, is it not?

A. Yes, I would say it is seldom he insists that he be removed from the crew. However, he will suggest quite often that he be changed to another job, or crew.

Q. It is also seldom they insist on having a whole new crew? Is that true?

A. That is correct.

Q. On the crews themselves the men do rotate back and forth to some extent on the job?

A. Yes, sir. [127]

Q. And the crew foreman himself has them do that? A. I think that is correct.

Q. They cooperate together in the handling of potatoes, do they not? A. That is correct.

Q. Before you become connected with the association were you in the produce business yourself?

A. Yes, sir.

Q. How much experience had you had in the produce business?

A. Well, I have been,—prior to the time I went over there as manager I was in the farming and shipping business for about fifteen years.

Q. Are you familiar with the operations of the other companies that are named in the complaint in this case?



(Testimony of Farrel L. Hansen.)

A. Well, in a general way, I think I would be.

Q. Do you know whether the work the employees of those companies do is substantially the same as you have described for yours?

A. You mean insofar as it concerns what?

Q. The work the men employed by the company do,—the actual work they do?

A. Yes; I think it is very comparable.

Q. In your warehouses you have,—you also have your sorting table and sorting crew, in your warehouses, is that correct? [128]

A. Yes, sir.

Q. In addition, do you have some additional employees, warehouse employees who do not work on the sorting crew, or work only part time on the sorting crew?

A. Yes, sir.

Q. Such as car loaders and employees of that kind?

A. That is right.

Q. Do you have any other supervisors in your warehouses beside the foreman?

A. Well, we have some different lines of work done by individuals. All work incident to the warehouse is not grading on the tables.

Q. I understand, but do you have any other supervisory employees besides the foreman,—any assistant foreman?

A. Yes; we have an assistant foreman.

Q. In the Idaho Falls plant?

A. Yes, sir

Q. What is his name?

A. Lester Long.

Q. Was he there last season, too?

A. Yes, sir.

(Testimony of Farrel L. Hansen.)

Q. Do you have any in Shelley?

A. He has a little different arrangement there. The branch bookkeeper is also assistant foreman, in that case.

Q. I wonder, Mr. Hansen, if you are able at this time to [129] give me the approximate quantity of your shipments for last season, for the Idaho Falls and Shelley operations, or for the association as a whole?

A. I could give it to you for the association as a whole in carloads. Is that the way you want it?

Q. Yes.

A. It is approximately twenty-five hundred carloads.

Q. Is that figured on the basis of the fiscal year, July to July, or how do you figure it?

A. Yes, sir.

Q. What percentage of these shipments were shipped outside of the state of Idaho, approximately?

A. I would say practically all of them, between ninety-five and ninety-eight per cent.

Trial Examiner Barton: Do they go to any one part of the country more than another?

A. Oh, really, no. They really get a very wide distribution.

Q. Do you have any contracts directly with any agency of the Government for potatoes?

A. We don't have any existing at the present time. I have one pending.

Q. Have you during the past season sold to agencies of the Federal Government?

(Testimony of Farrel L. Hansen.)

A. Oh, yes; the army. [130]

Q. Approximately what percentage of the twenty-five hundred carloads came from the Idaho Falls and Shelley plants?

A. Oh, let me see,—I would say fifty per cent, or just a little more than fifty per cent came from the two places.

Q. The Idaho Falls plant is the bigger?

A. That is right.

Q. You also operate transports of your own in Interstate Commerce for the transportation of potatoes,—transport trucks? A. Yes, sir.

Q. How many of those do you have?

A. One.

Q. Do you do most of the trucking from the cellars to the warehouses by association trucks?

A. Oh, I would imagine we would perhaps do a little more than fifty per cent.

Q. And the balance is done by whom?

A. The farmers, or some private trucks they have arranged for.

Trial Examiner Barton: I suppose when you do the trucking that is just charged against what the farmer gets? Is that the situation?

A. Yes; that is right. The farmer owns the trucks, really, and there, again, we estimate what it costs us to haul from the farmer's cellar to the car or to the warehouse, and then [131] if we don't use what we charge him for that, or deduct from his potatoes for it, the balance is refunded to him at the end of the season.

(Testimony of Farrel L. Hansen.)

Trial Examiner Barton: Now, when you ship to buyers outside of the state, as I understand it, they settle with the association, and the association, in turn, settles with the growers?

A. That is right. We make a retain there to cover our costs and in-transit risks, and if our retains are more than what our actual expense is, then the credit at the end of the season is prorated back to the growers on a tonnage basis.

Q. (By Mr. Babcock): In the case of the handling of potatoes for non-members, do you charge them with the same estimated overhead costs as you do your members?

A. Yes, sir; they are subjected to the same procedure.

Q. What advantage is there then to being a member of the association and having potatoes handled through the association?

A. There really isn't very much, other than the active members of the association have the first call on the services that are there.

Q. I see. If there isn't the facilities to handle any more, then you don't handle the potatoes of the non members? Is that correct? [132]

A. That is correct.

Q. The members also participate in the meetings, and have a right to vote?

A. That is correct. That is another advantage they have.

Q. Would you be able to estimate the percentage

(Testimony of Farrel L. Hansen.)

of potatoes you handled which belonged to members, and potatoes which did not, say for last season?

A. I would imagine it is about ninety per cent member business, and ten per cent non-member business.

Q. Have you compiled any statistics on that subject?      A. No; I haven't.

Q. Or any summary?

A. Our records over there would indicate it.

Q. You have no summary prepared which would show that readily?      A. No, I don't. [133]

#### Redirect Examination

Q. (By Mr. Babcock): Mr. Hansen, it is my understanding in the instances where the farmer paid the crew, that was in the case of crews you picked up, or crews you sent out, but not your regular crews. Is that correct?

A. That is not correct.

Q. Sometimes they pay your regular crews when they are working in their cellar?

A. Yes, sir; some prefer to pay with their own check rather than have it deducted from their account-sale, and I don't want to create the impression that all of the growers are laying men off, or transferring them, but I do want to tell [135] you that growers exercise interest in the crews constantly, and I do get constant suggestions and recommendations from them as to where they think the men can perform the most efficiently.

Trial Examiner Barton: Do you always follow those suggestions or recommendations?

(Testimony of Farrel L. Hansen.)

A. I would say in a large majority of the cases I do. I have found it to be very helpful and constructive.

Trial Examiner Barton: But in some instances you don't follow it?

A. In some instances I find they are wrong.

Q. I will ask you now, Mr. Hansen, who has the power to decide what action to take in any particular matter?

A. The farmer is the boss. He is my boss. If I don't do what he says, I am not there, and that applies to every man and woman in the organization.

Mr. Babcock: That is all.

#### Recross Examination

Q. (By Mr. Weston): I would like to develop a little further the difference between your operation as compared with others on paying for or charging for the crew. Do I understand you claim under your association set-up the exact charge for packing the crop is charged against the individual farmer?

A. Yes, sir; that is correct. [136]

Q. That is, the total amount you pay for that labor is charged against him directly?

A. That is correct.

Q. Now these potatoes that are packed by you either in the shed or on the farm, who owns those potatoes until they are shipped, or delivered to the buyer?

A. The farmer absolutely owns them until they are accepted by the buyer.

Q. So he owns them all that time?



(Testimony of Farrel L. Hansen.)

A. Yes, sir. I might illustrate further, if you like, if a sale is made and later rejected and a reduced price is experienced, that is charged back to the growers on a pro-rata basis.

Mr. Weston: I believe that is all I have.

### Redirect Examination

Q. (By Mr. Babcock): What do you mean by "on a pro-rata basis?" Do you mean for a particular shipment to be charged back to the farmer whose particular potatoes made up that shipment?

A. I mean for the total shipments for the season, as a whole.

Q. They are charged back to all of the farmers who have made sales in proportion to the amount of potatoes they have sold?

A. The retain the directors have instructed me to take out from the account—sale to the grower covers,—or is supposed [137] to cover that portion of our expenses, and that is where it is charged, so that grower, along with all others, unless it could be shown the individual grower has an individual responsibility, or a failure to deliver what he agreed to deliver,—

Q. That would be extremely difficult, wouldn't it? Isn't the identity of the ownership of these potatoes lost once they are in the box car?

A. No, sir.

Q. How is that identity kept?

A. We keep track of every man's potatoes that goes into every car, and every sack of potatoes that goes through there.

(Testimony of Farrel L. Hansen.)

Q. As a matter of practice, the individual grower whose potatoes did not measure up to specifications is not charged the whole amount of the loss, is he? It is pro-rated?

A. Not unless he would fail to come up to the stipulations of the sale. For example, if you are a grower out here and I have an order for U. S. No. 1's; I submit that order to you for your acceptance, and you accept it, and we get a U. S. No. 1 certificate on them and they are loaded on the car. Now in transit the shipment might freeze. That is not your fault individually. That is a cause beyond your or my control, so any loss incident to that damage is taken out of this retain fund and is prorated to each member in [138] the association.

Q. The potatoes are always inspected as they are put into the cars, or before they are put into the cars? Is that correct?

A. Yes; we take inspection on everything.

Q. Inspection is made before the time the car leaves the plant?

A. Yes, sir.

Q. Now, how is the identity of these particular potatoes, the name of the owner or grower, maintained after that?

A. If we make a deal with you on a car of potatoes, give you an order and you accept it, we have our books which show that Mr. Babcock delivered so many potatoes, and they are given a lot number, and put in such and such a car, and if something happens to that car we know exactly whose potatoes they are.

(Testimony of Farrel L. Hansen.)

Q. Sometimes you ship mixed cars, do you not?

A. Yes; quite often.

Q. Upon the same order?

A. Yes, sir. [139]

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A. G. STANGER,

called as a witness by and on behalf of the Board,  
being first duly sworn, was examined and testified  
as follows:

Direct Examination

Trial Examiner Barton: State your full name,  
please.

A. A. G. Stanger.

Q. (By Mr. Penfield): What is your address,  
Mr. Stanger? A. Idaho Falls, Idaho.

Q. What is your business or occupation?

A. Well, in this particular case, I suppose you  
want it connected with the potato business. I am  
manager of the Idaho Falls Bonded Warehouse  
Company.

Q. Is the Idaho Falls Bonded Warehouse Com-  
pany,—what is the correct name of that company?

A. Idaho Falls Warehouse Company, Incorpo-  
rated, is the [142] correct name. The “Bonded,”  
has been inserted, simply because we are bonded,  
both by the State and by the Federal Government,  
and it has been associated with the name, and so  
we call it that.

Q. The correct name is as it is in the complaint?

A. Yes, sir.

(Testimony of A. G. Stanger.)

Q. When was this corporation formed?

A. In 1919.

Trial Examiner Barton: Do you use the letters "Inc." or "Incorporated?"

A. No; just "company."

Trial Examiner Barton: All right.

Q. In what state is it incorporated?

A. Idaho.

Q. Are you an officer of the corporation at the present time? A. Yes, sir.

Q. Who are the other officers?

A. A. E. Stanger is president; Glen Stanger is vice-president; I am secretary-treasurer and manager.

Q. These gentlemen that you mentioned, are they all related to you? A. That is right?

Q. Brothers?

A. A. E. is my father; the other two are brothers. [143]

Q. Is this corporation wholly owned by your brothers and father? A. Yes, sir.

Q. There are no other stockholders?

A. Yes; I have one sister.

Q. One sister? A. Yes, sir.

Q. It is entirely owned by the family?

A. That is right.

Q. And was that true at the time of the incorporation? A. No, sir.

Q. I believe your initials are A. G. Stanger,—are you commonly known as Bert Stanger?

A. That is right.

(Testimony of A. G. Stanger.)

Q. For how long has this corporation been wholly owned by members of your family?

A. I can't give you the exact date, but it would be,—I would have to look at the record.

Q. I don't care about that,—just approximately?

A. Oh, approximately ten years.

Q. Approximately ten years. And what is the business of the corporation?

A. It consists of the storing of household goods, storing of produce, storing of wool, handling and selling of coal, and handling and selling of fertilizer, feeds, stokers, heat- [144] ing equipment, installation equipment,—I don't know whether I have skipped anything or not.

Q. You didn't mention potatoes?

A. I mentioned "produce," didn't I?

Q. Are potatoes the produce you handle?

A. Yes, sir.

Q. Now, in connection with your handling of potatoes, is your business conducted, that is, do the employees do work in a similar manner to which Mr. C. R. Holden and Mr. Hansen described?

A. Yes, the produce business is handled in that fashion as described by the previous witnesses.

Q. I mean by that,—I am limiting it to the fact you have country crews and have a warehouse crew and do washing and those sorts of things?

A. Yes, sir.

Q. Now, do the members of your family who own the corporation also grow potatoes?

A. That is right; we do.

(Testimony of A. G. Stanger.)

Q. And does the corporation handle and ship the potatoes grown by members of the family?

A. That is correct.

Q. All of the potatoes grown by them?

A. Not all of them, because some of them are taken to the flour mill by the trucks from the farms, and so forth, and [145] in that particular case they wouldn't, but in the most part the potatoes are handled for the family.

Q. Now, does the corporation have some special arrangement in handling the potatoes of the family that is distinguished from the handling of potatoes of other growers?

A. That is correct. The potatoes from the family are handled in very much the same fashion as described by Mr. Hansen for the Potato Growers Association; in other words they are turned over to us to handle. Do you want me to,—

Q. Go ahead.

A. They are turned over to us to handle, and after the sales have been consummated and the returns made, then, of course, the individuals are given credit for the potatoes minus delivery charges, trucking charges, sack charges, and so forth.

Q. And that includes the sorting charges?

A. That is right.

Q. Then on each individual shipment you have from a member of the family you keep an account, a separate account of the costs of sorting, the sacking and everything?



(Testimony of A. G. Stanger.)

A. That is correct, and in some cases, depending on the season and on how busy we are, members of the family may sort up their potatoes, rough them over, and bring them in in order to help facilitate the labor situation, because in each case we have on these various farms men who may, or [146] may not be, busy at certain particular times, and if they are not busy feeding cattle or handling livestock, they can sort the potatoes up roughly and bring them in.

Q. In that instance there will be work done on the potatoes at the warehouse,—there will be another sorting at the warehouse before they are finally packed, is that right?

A. There will be in some cases. However, in other cases in which the potatoes may be packed dry, they will be packed by those men who are employed on the farms throughout the year, and then trucked in and loaded immediately into the car.

Q. In those instances your country crews don't handle them at all?      A. No.

Q. Now, could you estimate about what percentage of the total amount of your family's potatoes that you handle there will be handled in this manner, as distinguished from having your country crews work on them?

A. That is hard to do, because of the existing circumstances that have taken place at the time the potatoes move.

Q. I realize that, but what I had in mind, is it an unusually large percentage, or a comparatively small percentage?

(Testimony of A. G. Stanger.)

A. Oh, I would say, roughly,—and it is merely a guess because I would have to go to the record,—I would say possibly not over twenty-five per cent are handled by the boys that [147] work on the farm the year round.

Q. And the remainder will be handled by your crews?  
A. Yes, sir.

Q. When those crews go out to handle your family's potatoes, their salaries will be paid by the company? Is that right?

A. Paid by the company and then charged against the members of the family.

Q. Now, are the balance of the potatoes you handle and ship handled in a manner similar to that described by Mr. Lloyd Holden?

A. Some potatoes we buy loaded from other dealers.

Q. Those are carload lots?

A. Carload lots; yes, sir.

Q. Let's limit it to the potatoes which are packed by your employees?

A. Very similar to the manner which was described by the other witnesses, except in some cases we have growers who turn their potatoes over to us to handle, and we merely handle them for those growers, charging up the labor, the trucking, and so forth, to them, and handle them on a percentage basis; in other words, they pay us so much a car for the handling of them.

Q. Now, is that,—how does that arrangement differ from the one you have with the members of the family?

(Testimony of A. G. Stanger.)

A. Well, only in this respect: We charge the individual [148] for the services rendered, where we don't the family.

Q. What do you mean by,—you charge the family,—

Mr. Penfield: I will withdraw the question.

Q. I thought you said that you charged against the price for your family?

A. I meant over and above the cost.

Q. Oh, I see.

A. In other words, we wouldn't operate for everybody and do it just at cost, because we couldn't pay taxes.

Q. The difference in the handling then is that you make a profit out of it?

A. A little profit.

Q. Can you explain,—can you give us,—the remainder are made under a direct purchase arrangement with the individual grower?

A. That is correct.

Q. In substantially the same manner?

A. Yes, sir.

Q. Can you give us the approximate percentages for last year of the entire potatoes that you handled and shipped, that were shipped, first, by the members of your family?

A. I couldn't give that to you exact there; it would be approximate, because it varies each year, but I would say that possibly last year, fifteen per cent.

(Testimony of A. G. Stanger.)

Q. About fifteen per cent. And that might vary from fifteen [149] per cent up to what?

A. Up to thirty-five per cent.

Q. Then what would be the percentage that you handled under this arrangement you have previously explained?

A. That wouldn't run over five per cent, I don't think,—five to ten per cent.

Q. And the balance then will be purchased directly from the grower and packed by him?

A. That is correct.

Q. Now, during the past year approximately how many carloads did the company ship?

A. It would be in the neighborhood of about seven hundred.

Q. About seven hundred? A. Yes, sir.

Q. And approximately what percentage of these were shipped outside of the state of Idaho?

A. Well, practically all of them went outside of the state. Some were sold on an f. o. b. basis, but even if they were sold here, they moved outside of the state. I can't give you the percentage that was sold outside of the state.

Q. Would about ninety per cent go outside of the state?

A. I think it would be somewhere around there, any way.

Q. What percentage of your shipments, these seven hundred cars, were carload lots, as distinguished from potatoes you had handled and packed?

(Testimony of A. G. Stanger.)

A. I don't understand your question.

Q. Well, I understood you to state that you also purchased some potatoes in carload lots?

A. Oh, I see.

Q. That you don't pack and handle at all?

A. It would be merely a guess, because I can't say.

Q. Well, approximately of the seven hundred cars?

A. I would say possibly twenty-five per cent were packed by other packers.

Q. And your employees didn't handle them at all?

A. Our employees didn't handle them; no.

Q. Of those that were packed by you, am I correct in this: Like the other shippers some of the potatoes will be rough-sorted in the cellar and sent in for further sorting in the warehouse, while others will have the grade made in the cellar, and will be shipped directly? A. That is correct.

Q. Can you give me an idea of about what percentage will be rough-sorted and sent in, as compared with those that are graded and finally shipped?

A. Well, I would have to estimate it, and it may not be right. I would say that possibly sixty per cent, or better, were brought in.

Q. Were brought in rough-sorted?

A. Yes, sir. [151]

Q. And the remainder would be graded in the cellar?

A. That is correct. Last year was an especially

(Testimony of A. G. Stanger.)

bad year, and many of these potatoes had to be washed before they would pass inspection.

Q. And that matter of handling will vary from year to year and is usually a matter of agreement between the grower and the particular,—and the shipper, which in your case is the company?

A. Yes, sir; that is right.

Mr. Penfield: What I want to bring out is, he had [152] gone into the question that in case of the potatoes produced by the family, some were packed on the farm and not by the crews, and I want to find out what is the situation with respect to the remaining potatoes. Are some of them packed,—or sorted, rather, then by your crew?

A. In other words, do we buy potatoes from growers, and the growers pack the potatoes for us?

Q. Yes. A. Yes; we do that.

Q. About what percentage?

A. I can't estimate that offhand. I haven't any idea without going into the records.

Trial Examiner Barton: Would it be as much as fifty per cent?

A. No; last year I doubt if it run over fifteen per cent, [153] because of the condition of the potatoes.

Q. (By Mr. Penfield): While it might run higher in some years, generally speaking the majority will be packed by your own crews, is that correct?

A. I would say that is correct. However, if



(Testimony of A. G. Stanger.)

our labor situation changes much, they will all be packed by the growers.

Q. (By Mr. Penfield): Mr. Stanger, do you recall a farmer's meeting at,—a meeting that was held at the city hall on or about February 24th,—January 24th, 1942, at which employees were asked within?

A. Well, I recall something of a meeting,—in fact there [154] were quite a few held, I think. I wasn't at the meeting,—I don't know what took place, and whether or not that happens to be the exact date, I don't know.

Q. Did you attend a meeting among shippers and farmers on or about January 23rd, at the Bonneville Hotel at which it was agreed to call a meeting of the employees of the various potato houses and at which the shippers were requested to ask members of their,—representatives of their employees to attend the meeting?

A. Could I answer it this way, Mr. Penfield: I recall being at a meeting at the Bonneville Hotel. It was my understanding the meeting was called by Mr. Owens of the growers, and we were asked to attend, and I can't recall at that meeting whether or not there was to be a subsequent meeting of potato men or not.

Q. I think you have reference to a different meeting that was of a later date.

Mr. Weston: I think the meeting you are talking about was called at the city hall.

Mr. Penfield: I believe I said that.

(Testimony of A. G. Stanger.)

Trial Examiner Barton: You said at the Bonneville Hotel.

Mr. Penfield: The first meeting was a meeting at the city hall of the employees.

A. I don't recall the meeting. The only meeting I attended [155] was a meeting held at the Bonneville Hotel.

Q. Did you ever instruct any of your employees, or did you ever select any members of your employees to attend a meeting which was held in the city hall?

A. Oh,—not to my knowledge. Our employees have always been given to understand that if they wanted to attend a meeting, that was their business; not ours. If they wanted to go, certainly that was their right.

Q. You have no recollection of a meeting held at the city hall which was attended by employees of each of the shippers?

A. I haven't any recollection of it. There might have been a meeting there and possibly some of the men might have attended,—I don't recall.

Q. You never selected, or asked your employees to select any representatives to attend any meeting? A. No. [156]

Mr. Babcock: Mr. Examiner we have several stipulations [162] which I will read into the record.

Trial Examiner Barton: All right. Proceed.

Mr. Babcock: It is hereby stipulated that if the following named respondents and representatives of respondents were called as witnesses at this hear-

ing they would testify to the facts indicated below and that the statements of facts set forth below may be received into evidence to have the same force and effect as if they had been testified to during the hearing. The respondents referred to are W. P. Wilson, A. G. Stuart, George Peters, manager of S. Friedman and Sons; and Rowenah O'Neil. The respondents Wilson, Stuart, Peters and O'Neil in the purchase of potatoes from growers and in carload lots from other dealers make such purchases in substantially the same manner as respondents Taube and Holden. Purchases are made by oral agreement at an agreed price and are made either before sorting or after sorting by the growers. The work performed by the warehouse and country crews of these respondents is substantially the same as that performed by employees employed in similar work classifications by respondents Holden and Taube.

With respect to purchase prices paid to growers, the aforesaid Respondents in quoting prices make allowance for the estimated cost of sorting in those cases where the potatoes are purchased in bulk and the potatoes are to be sorted by Respondents' crews. The inspection made by the farmer or grower of the work being [163] done by the country crew in his cellar and the extent, if any, to which such farmer or grower supervises such work, as well as his relationship and dealings with the sorting crew and the crew foreman and those representatives of the respondents and fore-

men; are substantially the same for all Respondents named in the complaint, with the exception of Respondents Potato Growers and Respondent Traffic Association.

In all cases where the shipper purchases potatoes from the growers with the understanding that the shipper or dealer will do the sorting or packing with his own crew, some sort or grade is made in the grower's cellar, except in cases of potatoes handled field run.

Mr. Weston: Excuse me, but I would like to go back there, off the record.

Trial Examiner Barton: All right. Off the record.

(Discussion off the record.)

Mr. Babcock: What was the last few words, Mr. Reporter?

(Lines 8 to 11 incl. were read aloud by the Reporter.)

Mr. Babcock: In some instances this is the final sort or grade and thereafter potatoes are trucked to the railroad cars or warehouse of the dealer for storage preliminary to handling. In other cases only a preliminary sort is made in the cellar, the degree of thoroughness of the sort depending on the condition of the potatoes and other circumstances.

In this latter case, following the preliminary sort or grade, the potatoes are trucked to the warehouse and there [164] graded and, further, and packed, either washed or dry.

In addition to the above facts, the representatives of the above-named respondents or Respondents if called would testify further as follows:

That Respondent Wilson handles and sells potatoes grown by himself or grown by others and purchased by said Respondent. That during the season, during 1941-1942, between 10 and 15 per cent of the potatoes handled by Respondent Wilson were grown by him and the balance purchased from other growers or dealers. During said season said Respondent sold and shipped from his Firth, Idaho, his plant there, approximately 450 carloads of potatoes. Of this amount approximately 90 per cent was sold and shipped outside the State of Idaho. Approximately 50 per cent of the potatoes sorted and packed by the crews in the cellars of growers were further sorted in the warehouse of said Respondent.

George Peters is manager, the Idaho Falls manager of Respondent Friedman. Respondent Friedman does not own *or* plant at Idaho Falls, but does lease and operate an office in Idaho Falls and did during the potato season in 1941-1942 lease or operate a warehouse or plant in Idaho Falls. Respondent Friedman has its main office in Chicago, Illinois and is generally engaged in the produce business in various States. During the 1941-1942 potato season Respondent Friedman at the Idaho Falls plant or warehouse purchased, sorted, packed and [165] sold approximately 360 cars of potatoes, of which approximately 90 per cent were sold and



shipped to points outside of the State of Idaho. Since the opening of the 1942 season Respondent Friedman has bought, through its Idaho Falls office, carload lots of potatoes, which have already been sorted, packed and loaded. During the 1942-1943 season to date Respondent Friedman has not employed country or warehouse crews for the purpose of sorting and packing potatoes. At the present time it is not certain whether the Respondent Friedman will employ such crews during the 1942-1943 season.

During the 1941-1942 season none of the potatoes handled by Respondent Friedman in its Idaho Falls operation were grown by such Respondent during said season. All potatoes purchased by said Respondent from growers were sorted by crews of said Respondent. From 70 to 75 per cent of the potatoes sorted by crews of the Respondent in the cellars of growers were further sorted in said Respondent's warehouse before shipment.

Respondent Stuart, during the season 1941-1942 packed and shipped approximately 200 carloads of potatoes, approximately 95 per cent of which were sold and shipped to points outside of the State of Idaho. Approximately 5 per cent of the potatoes handled by said Respondent were grown by the Respondent. The remaining 95 per cent was purchased from growers. About 10 per cent of the potatoes purchased by Respondent Stuart [166] were sorted and packed by the growers from whom the purchases were made, the remainder were sorted and packed by Respondent Stuart. About 60 per



cent of the potatoes sorted and packed by Respondent Stuart were finally packed and sorted in the cellars of the growers, while a preliminary sort and pack was made with respect to the remainder in the cellars of such growers, and a further pack and sort is made in the warehouse of said Respondent.

Rowenah O'Neil is the duly appointed and acting administratrix of the estate of J. E. O'Neil, deceased; as administratrix she is carrying on the business of J. E. O'Neil in substantially the same manner as it was conducted by J. E. O'Neil. During the season 1941-1942 J. E. O'Neil sold and shipped 800 to 900 carloads of potatoes, of which, in excess of 90 per cent were sold and shipped outside the State of Idaho. During such season none of the potatoes handled by Respondent were grown by said Respondent. About 50 per cent of the potatoes handled by said O'Neil during said season were finally packed and sorted in the cellars of the growers by O'Neil's crews; the remainder of the potatoes were sorted and packed in the warehouse of Respondent O'Neil. During the 1942-1943 season to *day* between 10 and 15 per cent of the potatoes packed by Rowenah O'Neil, administratrix, were grown either by Rowenah O'Neil, administratrix or by her personally. [167]

Trial Examiner Barton: Does that complete the stipulation?

Mr. Babcock: One more paragraph. And it is further stipulated that this stipulation is without prejudice to the right of any party to introduce

further or additional testimony on any of the matters covered by the stipulation.

Trial Examiner Barton: We will go off the record and have the Reporter read the stipulation back to us and then we can make any corrections necessary.

(Whereupon, in an off-the-record discussion the foregoing stipulation was read back.)

Trial Examiner Barton: For the record, is the stipulation now as read back by the reporter agreeable?

Mr. Weston: Yes sir.

Trial Examiner Barton: Is it agreeable to the Board also?

Mr. Babcock: Yes sir. Will you mark these?

(Hands documents to reporter.)

(Whereupon, documents hereinabove referred to were marked as Board's Exhibits 3 to 10 inclusive for identification.)

Mr. Babcock: I offer in evidence what has been marked for identification,—what have been marked for identification as Board's Exhibits numbers 3 to 10 inclusive, which are payroll lists or employees of the respondents at various payroll dates and periods; during February 1942, and in some instances [168] including payrolls in April. I offer these with the understanding that Mr. Weston is willing to stipulate that these are correct as lists of the employees of these Respondents in the units alleged in the complaint to be appropriate during the periods or on the date indicated on the lists.

Trial Examiner Barton: Is that correct Mr. Weston?

Mr. Weston: Yes, that is correct; yes, that is correct, with the further understanding I believe that Mr. Babcock is going to allow Mr. Stuart to submit an additional list of the employees showing more common employee record.

Mr. Babcock: That is correct. Mr. Stuart asked if he could submit such a list.

Trial Examiner Barton: All right. Board's Exhibits 3 to 10 inclusive are admitted in evidence.

(Whereupon, documents heretofore referred to marked as Board's Exhibit 3 to 10 incl. for identification were received in evidence.) [169]

## BOARD'S EXHIBIT NO. 3

(Copy)

## PAYROLL

No. 1

Idaho Falls Potato Growers, Inc., Idaho Falls, Idaho

From Feb. 6 to Feb. 12 Inc. 1942

Unskilled labor

Austin, Don

Bailey, George

Barr, Jess

Bates, Arvin

Bates, O. V.

Bates, Reed

Beach, A. W.

Berger, Alfred

Braegger, John

Briggs, Wayne

Broomhall, Harry

Burke, Newell

Butler, Dewey

Carlson, Vaughn

Carter, Earl

Cleverley, Parley

Clarke, Kent

Covert, Delbert

Depew, George

Desch, Dewey

(Copy)

PAYROLL

No. 2

Idaho Falls Potato Growers, Inc., Idaho Falls, Idaho

From Feb. 6 to Feb. 12, inc. 1942

Unskilled labor

Edwards, Clifford

Edwards, Ed.

Feeley, Marvin

Frandsen, Ray

Frandsen, Wardell

Gardner, Lawrence

Gardner, Lyle

Gallup, Dell

Galbraith, Bill

Goodwin, Max

Goodwin, Ron

Goldman, Warren

Glass, Royce

Haddon, Heber

Handy, Herman

Hansen, Jim

Harris, Charles

Harris, O.

Henderson, Cecil

Holm, Axel

Hudman, Jerome

(Copy)

## PAYROLL

No. 3

Idaho Falls Potato Growers, Inc., Idaho Falls, Idaho

From Feb. 6 to Feb. 12, inc. 1942

Unskilled labor

Jensen, Austin

Jensen, Clint

Jones, Dell

Kingham, Dwain

Long, Lester

McEntire, Wayne

Morgon, Dale

Montague, Arthur

Mass, Ralph

Mussman, Vic

Neilsen, John

Nelson, Harold

Nielsen, LaVern

Narell, Claude

Narell, C. H.

Narell, E. H.

Oswald, Bill

Oswald, George

Oswald, Vic

Otteson, Dib



(Copy)

PAYROLL

No. 4

Idaho Falls Potato Growers, Inc., Idaho Falls, Idaho  
From Feb. 6 to Feb. 12 inc. 1942

Unskilled labor

Phillips, J. R.

Rawson, Perry

Randall, Milt

Rash, Milo

Rush, Hugh

Ryder, Lloyd

Saeman, Emil

Sauers, Ed

Sauers, Harry

Schelt, Pete

Schofield, Joe

Shields, Rom

Steers, Elven

Steers, Rue

Taylor, Al

Tracey, Bert

Tracey, E. L.

Turner, Norman

Walquist, Art

Watson, D. E.

(Copy)

## PAYROLL

No. 5

Idaho Falls Potato Growers, Inc., Idaho Falls, Idaho

From Feb. 6 to Feb. 12 inc. 1942

Unskilled labor

Watson, Dean

Watson, Max

White, Ted

Wilson, Geo. D.

Winder, V.

Winge, Carey

Yorgesen, Lloyd

(Copy)

PAYROLL

Idaho Falls Potato Growers, Inc., Shelley, Idaho

From Feb. 6 to Feb. 13, inc. 1942

Unskilled labor

Allen, Adrian

Belnap, L. R.

Belnap, Norman

Christensen, L.

Converse, Wm.

Davis, C.

Dodge, Gilbert

Fowler, Davon

Fowler, Leland

Godfrey, Earl

Goldman, Warren

Hult, Marvin

Johnson, Gerald

Johnson, James

Kotter, LeMar

Lafgren, Gus

McMurtrey, J. L.

Morris, H.

Owens, Reed

Richards, Elmo

No. 2

Robertson, Ivan

Simpson, Earl

Tracey, Les

## BOARD'S EXHIBIT NO. 4

(Copy)

List of employees for pay-roll period next preceding  
February 13, 1942, and job classifications.

Anderson, James LeRoy .....	Dumper .....	\$21.45
Armstrong, Ladd .....	Sorter Man .....	21.17
Armstrong, Read .....	Table Man .....	23.10
Beasley, Melvin .....	" .....	25.20
Beasley, William L. ....	" .....	21.77
Bradshaw, Sam .....	" .....	15.60
Brewington, Harold .....	" .....	10.80
Bronson, Wilmer .....	Jigger .....	15.60
Dye, Myron .....	Trucker .....	27.90
Fotheringham, Lawrence ..	Table Man .....	2.70
Frandsen, Cecil Burke .....	Sower .....	20.40
Hopkins, Bill .....	Scooper .....	20.35
Howell, Jesse .....	Table Man .....	19.18
Kellar, Vernal .....	Scooper .....	21.45
Lord, Joseph .....	Trucker .....	26.10
Lundquist, Moroni .....	Sower .....	15.60
Mitchell, Joseph .....	Table Man .....	15.60
Mitchell, Thomas James .....	" .....	5.20
Peterson, Roy O. ....	Scooper .....	2.10
Rambough, Frank .....	Sower .....	15.30
Seavers, Phillip B. ....	Car Loader .....	28.28
Smith, Marion .....	Jigger .....	10.80
Stoddard, James Keith .....	Sower .....	15.60
Stoddard, Ray .....	Dumper .....	15.60
Steffler, Edward .....	Cull man .....	22.55
Wernette, John .....	" .....	16.50

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\$455.90

W. P. Wilson  
P.O. Box 15  
Firth, Idaho

## BOARD'S EXHIBIT NO. 5

## PAYROLL REPORT

L. S. TAUBE &amp; CO., INC.

Francis Albertson	Ross Moore
Milton Ball	Wayne Montague
Alvin Ball	Laval Morgan
Hyrum Beck	Gene Owens
Jack Becker	W. Owens
W. D. Brown	Merlyn Russell
Elton Call	Frank Scheer
Ward Dickey	Pete Schultz
Wilford Frandsen	Russell Steele
Leonard Garner	Walter Thiel
Grant Grover	Cleo Teats
Cliff Grover	Preston Waldon
Jess Hall	Bernard Wershey
Oscar Holm	George Moore
Rulon Jenks	Moroni Whittacker
Arthur Lake	Art Levin
Dave Mahoney	<del>Carl Metcalf</del>
A. E. Moore	<del>Warren Coon</del>
Clifford Moore	<del>Rulon Rigby, Jr.</del>

Copy of Payroll for Idaho Falls Whse.

Week ending Feb. 12, 1942.

40 hr. week.

(Copy)

## PAYROLL REPORT

L. S. TAUBE &amp; CO., INC.

Francis Albertson	George Moore
Milton Aller	Ross Moore
Alvin Ball	Wayne Montague
Hyrum Beck	Laval Morgan
Jack Becker	Mertis Morgan
W. D. Brown	Gene Owens
Elton Call	W. Owens
Elias Clements	Merlyn Russell
M. Crandall	Frank Scheer
Ward Dickey	Pete Schultz
C. A. Falk	James Singleton
Wilford Frandsen	Russell Steele
Leonard Garner	George Shipley
Harald Goodell	Walter Thiel
Grant Grover	Cleo Teats
Cliff Grover	Clency Wadsworth
Jess Hall	Preston Waldon
Howard Hammer	Bernard Wershey
Jack Hendricksen	Moroni Whittaker
Oscar Holm	Willard Moore
Rulon Jenks	Art Levin
Arthur Lake	<del>Carl Metcalf</del>
Iver Haddon	<del>Rulon Rigby, Jr.</del>
Dave Mahoney	<del>Warren Coon</del>
A. E. Moore	Lincoln Albright (off
Clifford Moore	because of injuries)

Copy of Payroll at Idaho Falls Whse.

for week ending Feb. 5, 1942.

40 hr. week.



(Copy)

PAYROLL REPORT

L. S. TAUBE & CO., INC.

Anderson, Anton	Sayer, Burdette
Anderson, Frank	Seamond, Chester
Bridges, C. M.	Sellar, Chase
Christensen, Wesley	Sessions, Darwin
Christofferson, Mertin	Staples, Don
Cox, Adrain	Staples, Revoe
Cook, Alma	Young, Orson
Hansen, Donald	Wadsworth, Weldon
Hansen, Cecil	Polson, Gail
Harker, Frank	Eckersley, Joy
Jorgensen, John	Wright, Leland
Priest, Kenneth	

Payroll ending Feb. 13, 1942

L. S. Taube & Co.

Shelley, Idaho

## BOARD'S EXHIBIT No. 6

S. FRIEDMAN & SONS  
CAR LOT DISTRIBUTORS  
POTATOES \* ONIONS  
IDAHO FALLS, IDAHO

Jens Lund  
Marian Miller  
Earl Carter  
Marion Leatham  
Harry Guilzens  
Meyrrell Redding  
Michey Smith  
Harry Jeffers  
Harold Atkinson  
Dale Weber  
Otto Korte  
Fred Johnson  
Chas. Hathway  
Jack Rogers  
Glen Waldon  
Elden Johnson  
Ellis Stroms  
Ken Carlson

Gus Peters  
Jerry Longbroke  
Gilbert Jensen  
Ewald Stamike  
Dennis Hurley

Week of Feb. 16  
O.H.H.

## BOARD'S EXHIBIT No. 7

Copy

NAME OF POTATOE SORTERS OF FEB 16th,  
1942 at IDAHO FALLS BONDED WARE-  
HOUSE CO.

Feb. 16, 1942

Chester Clark  
Sterling Smoot  
Lew Campbell  
Lee Hansen  
Lowell Payne  
Floyd Williams  
Harry Williams  
Stanley Payne  
Delmar Rapp  
Merlin Godfrey  
Jess Bates  
Leonard Burke  
Hnery Simonson  
Frank Worthington  
Geo. Crosley  
Harvey Hyrend  
Dale Williams  
John Griggs  
Jack Heyrand  
Clyde Williams  
Hyrum Severson  
Mert Morgan  
Ray Ferguson

April 20, 1942

Delmar Rapp  
Harry Williams  
Stanley Payne  
Geo. Shipley  
Dorsal Morgan  
Floyd Williams  
Frank Worthington  
Mert Morgan  
Hyrum Severson  
Lowell Payne  
Jim Singleton  
Hnery Simonson  
Lew Campbell  
Chester Clark  
Merlin Godfrey  
Ray Ferguson  
Roy Rapp

## BOARD'S EXHIBIT No. 8

Copy

J. E. O'NEIL

POTATOES

Idaho Falls, Idaho

4/27/42

February

Ray Weigel  
Gerald Heyrend  
Lawrence Clark  
Swen Sorman  
Ed Eslinger  
Cleo Gardnier  
Joe Becker  
Mike Baesl  
Glenn Davis  
Randell Pilkington  
Wm. Leviatt  
Kirk Farmer  
Joe Kraupp  
Earl McDowell  
Jack Fairless  
Buck Batson  
Woodrow Osterhart  
Roy O'Neil  
Floyd Taylor  
Ellis Gillette  
Elmer Elg  
Thomas Rowley  
Jack Sherrick  
Les Shelton

April

Ray Weigel  
Ed Eslinger  
Wm. Leviatt  
Swen Sorman  
Joe Kraupp  
Earl McDowell  
Randall Pilkington  
Kirk Farmer  
V. M. Hicks  
Woodrow Osterhart  
Paul Walker  
Lionel Brown  
Ellis Gillette  
Mike Baesl  
John Knutsen  
Merrill Leviatt  
Vincent Jacobs  
Floyd Taylor  
Jack Fairless  
Wm. Sauers  
Jacob Sauers  
Roy O'Neil  
Harry Sauers  
Francis Croft

February

Everett Kelsch

Gus Witt

John Knutsen

Wm. Sauers

Harry Edwards

Floyd Winder

John Calder

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BOARD'S EXHIBIT No. 9

Copy

A. G. Stuart

Dealer

IDAHO POTATOES

Shelley, Idaho

Mr. Babcock

4-29-32

My pay roll of men from 16-21 of Feb. We only worked here 2½ hrs that week.

Andrew Millard

Jess Rowly

Clifford Mitchell

Francis Farrar

Clarance Linquist

Loyd Johnson

Floyd Mitchell

George Hardy

J. A. Whorton

A. G. Stuart

R. J. Rowly

## BOARD'S EXHIBIT No. 10

Copy

Holden Bros., Inc.

Growers-Shippers

Potatoes

P. O. Box 859

Idaho Falls, Idaho

Speedkode

L. D. Phone 35

Mr. William Babcock

Rogers Hotel

Idaho Falls, Idaho

February 6th to 13th, 1942

Wayne Charlesworth

Pat Headdon

Hjalmar Anderson

Mart Hanson

Dan Edgington

Elbert Haddon

Vern Morgan

Russell Taylor

Dan Wilson

Udale Bailey

Ed Tschacher

Ed Holm

Shirley Montague

Bob Oakden

R. D. Hays

Arch Moffot

Albert Messmer

Seth Nield

G. A. Witt

Stanley Tovson

Bert Stoneberg

John Brus

Guy Bledsoe

D. Morgan

Allan Pittman

Kenneth Jones

Mike Zelozy

Virgil Brown

Elmer Hays

M. L. Bledsoe

Emil Winten

Glen Thomas

Ila Roland

Onis Coburn

Joe Kissner

Walter Bagshaw

C. S. Price



Mr. Babcock: Mr. Examiner, *did understand* Mr. Weston to say also that he is willing to stipulate with us,—I believe he is willing to stipulate with us also, and I offer this as a further stipulation, that on the dates of these payrolls lists that are in evidence as Board's Exhibits 3 to 10 inclusive [170] the Union had been designated by a majority of the employees on the lists in the units alleged to be appropriate?

Trial Examiner Barton: Does that correctly state the stipulation, Mr. Weston?

Mr. Weston: Yes, that correctly states the stipulation.

Trial Examiner Barton: All right.

Mr. Weston: Except that at this time the Respondents deny that the employees as of that time are the employees as of the present time. That the selection of the bargaining agent at that time did not compel or require the employer to bargain at this time with the agent selected as of February or the Spring of 1942.

Trial Examiner Barton: All right.

Mr. Babcock: I think there is one further stipulation in this connection that we did agree on and that is this: that we agreed with Mr. Weston that on those dates the Union did not represent a majority in the Shelley plant of the Respondent Potato Growers, or of the Respondent Taube, but did represent a majority in both plants taken together in each case.

Trial Examiner Barton: When you say "on

those dates” did you mean by that the dates alleged on the complaint or on the,—

Mr. Babcock (interposing): On the dates on the payrolls in evidence.

Trial Examiner Barton: On the dates shown on the payrolls? [171]

Mr. Babcock: Yes.

Trial Examiner Barton: All right. Then I take it you agree to the last stated stipulation, is that correct?

Mr. Weston: Yes, that is correct.

Mr. Penfield: Now there is one stipulation which was reached,—I will read it to you Mr. Reporter and if I go too fast you stop me. “Idaho Traffic Association was formed in September 1941 for the purposes of appearing in Board’s Exhibit 2, it is a territory,—its territory is divided into seven districts, four north of and three west of Pocatello, Idaho. Its principal office is in Idaho Falls, Idaho. The officers of the corporation are: J. R. Simplot (spelling), President; the office of Vice President is at the present vacant, in up until approximately August 1942 that office was held by J. E. O’Neil, now deceased; Chris Christensen, Secretary-Treasurer; the Directors are E. L. Peterson, Chris Christensen,—” I gave you that above, the same person, “—Andy Hansen; J. R. Simplot,—” and you have that, “—E. S. Harper, and Bill Bailey (Spelling). The manager is Carl DeLong. Each of the Respondents named in the complaint and N. S. Sage (Spelling) Henry Hurly (spelling), Nephi Fielding (spelling), R. S. Wil-

son, Holland and Ragon (spelling), and Chris Christensen, potato dealers or shippers in the Idaho Falls area is a member of the Idaho Traffic Association and has been since before January 1st, 1942. [172]

Since before January 1st, 1942 luncheon meetings have been held weekly at Idaho Falls, attended by representatives of the members of the Idaho Traffic Association, and by others. At these weekly meetings various matters in connection with the problems of the industry as a whole have been discussed. Carl DeLong generally presides at these meetings. At said meetings decisions are reached on various problems with reference to action to be taken by those members present.

At about the time the Union contracts were presented to the shippers or dealers Eli Weston, attorney of Boise, Idaho was requested by Farrel Hansen and Eugene Trask, manager and Director respectively of the Idaho Falls Potato Growers association to come to Idaho Falls to discuss the question of labor problems and labor contracts with potato shippers or dealers.

About February 16, Mr. Weston, in response to such request, attended one of the aforesaid weekly meetings. At this meeting the shippers or dealers present voted to retain Mr. Weston for the purpose of representing them in labor negotiations.

The dealers or shippers who had been presented with contracts by the Union voted to make contributions to a fund for the payment of Mr. Weston. Certain other dealers or shippers who had

not been presented with a contract by the Union voluntarily made contributions to said fund. [173]

These contributions were made at that time or at a later date and paid to Carl DeLong who deposited such contributions with the funds of the Idaho Traffic Association. At a later date Mr. Weston was paid his fee by a check of the Idaho Traffic Association signed by Carl DeLong; "is that correct Mr. Weston?

Mr. Weston: Yes, that is correct.

Trial Examiner Barton: Does that complete the stipulation now?

Mr. Penfield: Yes.

Trial Examiner Barton: Well let's go back off the record then and have the reporter read back. Off the record.

Mr. Penfield: With this one,——

Trial Examiner Barton: Do you want this in the stipulation?

Mr. Penfield: Yes. "It is further understood that this matter stipulated to is without prejudice to the right of any party to go into matters connected with the Association."

Trial Examiner Barton: For the record, is the stipulation as read back by the Reporter agreeable?

Mr. Weston: Yes.

Trial Examiner Barton: Agreeable to the Board?

Mr. Penfield: It is. [174]

Mr. Weston: Yes, it is agreeable to us. [175]

Mr. Babcock: I offer in evidence what has been marked for identification as Board's Exhibits 11

to 35, inclusive; these papers consisting principally of letters are offered as being either the originals, or exact copies of the letters they purport to be copies of. They are offered as having been sent on or about the dates they are dated, and received in due course of mail by the persons to whom addressed. [177]

Trial Examiner Barton: Is there any objection?

Mr. Babcock: With respect to certain letters which purport to have been signed by Lee Owen, the offer is made with the understanding that on the original letters the letter head of the charging union in this case appeared. I also offer them with the understanding that they were signed by the,—the originals of the ones we have copies of, were signed by the persons who were supposed to have signed them. These exhibits constitute, so far as our records show, the complete correspondence between the Union and its representatives, and the respondents and their representatives in this matter.

Mr. Weston: We have no objection to that stipulation, except the last statement, because we are not sure at this time whether that is the complete record, and we would like to reserve the privilege of introducing further correspondence, provided there is further correspondence.

Trial Examiner Barton: I take it that if further correspondence is discovered you would have no objection to its introduction in evidence?

Mr. Babcock: Oh, no. I don't say that it is the complete file.

Trial Examiner Barton: So far as you know it is,—that is what you meant to say?

Mr. Babcock: Yes, Mr. Examiner. [178]

Trial Examiner Barton: All right. The documents are admitted in evidence.

(Whereupon the documents heretofore marked Board's Exhibits 11 to 35, inclusive, for identification, were received in evidence.)

[179]

BOARD'S EXHIBIT No. 11

[Stamped]: Copy.

February 10, 1942

W. P. Wilson  
Firth, Idaho

Dear Sir:

Enclosed you will find copy of an Agreement that has been drawn up and ratified by members of Truck Drivers and Warehousemen's Local #983 working in your plant. Only workers in your plant were allowed to participate in drawing up this contract. The majority of your employees are members of our Union and have given us bargaining rights to represent them in negotiations. A committee has been selected, composed of three members who are employed by your firm, Brother Ray Hansen and myself to act as the negotiating committee for the Union. It is our desire to start negotiations as soon as possible.



Hoping to hear from you as quickly as possible, I remain

Very truly yours,

LEE W. OWEN,

Secretary - Treasurer Truck  
Drivers and Warehouse-  
men's Local Union #983.

LWO AVW

---

BOARD'S EXHIBIT No. 12

[Stamped]: Copy.

February 13, 1942

Holden Brothers  
Idaho Falls, Idaho

Gentlemen:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I am

Very truly yours,

LEE W. OWEN,

Secretary-Treasurer.

LWO AVW

## BOARD'S EXHIBIT No. 13

February 13, 1942

[Stamped]: Copy.

Idaho Falls Potato Growers Association  
Idaho Falls, Idaho

Gentlemen:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I am

Very truly yours,

LEE W. OWEN,

Secretary-Treasurer.

LWO AVW

## BOARD'S EXHIBIT No. 14

[Stamped]: Copy.

February 13, 1942

Mr. J. E. O'Neil  
Idaho Falls, Idaho

Dear Mr. O'Neil:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I am

Very truly yours,  
LEE W. OWEN,  
Secretary-Treasurer.

LWO AVW

---

BOARD'S EXHIBIT No. 15

[Stamped]: Copy.

February 13, 1942.

Freedman and Son  
Idaho Falls, Idaho

Gentlemen:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I remain

Very truly yours,  
LEE W. OWEN,  
Secretary-Treasurer.

LWO AVW

## BOARD'S EXHIBIT No. 16

(Copy)

February 13, 1942

L. S. Taube & Company  
Idaho Falls, Idaho

Gentlemen:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I remain

Very truly yours,

LEE W. OWEN,

Secretary-Treasurer

LWO AVW

## BOARD'S EXHIBIT No. 17

(Copy)

February 16, 1942

Idaho Falls Bonded Warehouse  
Idaho Falls, Idaho

Gentlemen:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as

possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I am

Very truly yours,  
LEE W. OWEN  
Secretary-Treasurer

LWO AVW

---

BOARD'S EXHIBIT No. 18

(Copy)

February 16, 1942

Mr. A. G. Stewart  
Shelley, Idaho

Dear Mr. Stewart:

Enclosed you will find an Agreement that has been approved by the majority of the potato workers in all sheds in your district.

We would like a meeting with you as soon as possible to arrive at an agreement that will be satisfactory to you and to the members of our Union.

Trusting to hear from you in the very near future, I am

Very truly yours,  
LEE W. OWEN  
Secretary-Treasurer

LWO AVW

## BOARD'S EXHIBIT No. 19

Idaho Falls, Idaho

February 24, 1942

Mr. Lee W. Owen, Secretary-Treasurer  
Teamsters, Chauffeurs, Warehousemen,  
and Helpers—Union 983  
140 South First Street  
Pocatello, Idaho

Dear Mr. Owen:

As you undoubtedly know, I have been asked by the Idaho Falls Employers Association to assist them and to represent them with reference to the proposed contracts which you have mailed to some of the members of this organization.

As I have been informed, most of the contracts that you have presented to date are to the potato packers and, of course, a contract to the Upper Snake River Valley Creamery. I do not have a complete list of all of the contracts you have mailed out, but I believe I am safe in saying that I am representing all of the recipients of these contracts in this area including Firth and Shelley. In fact the Shippers' Association are members of the Idaho Falls Employers Association and all contracts presented to members of that Association will be represented by the writer.

I had hoped to have a conference with either you or Mr. Hansen today. I had a few minutes yesterday but was unable to get in touch with Mr. Hansen, and now I find that I have to return to Boise tonight and will attend a meeting of the co-



operative creameries in Boise the latter part of this week, but I expect to be back here either Saturday of this week or Monday of next week. If you or Mr. Hansen are here in Idaho Falls, I wish you would notify me of that fact.

You might be interested to know that the State Master of the Idaho Grange and a large crowd of farmers and growers invited me as the representative of these packers to attend their meeting last night and to read the terms of these contracts to them.

I complied with this request and after discussion some rather definite resolutions were proposed and adopted. I do not have a copy of the resolutions, but I have been informed by some of the potato packers that the growers and farmers are insisting that they be represented in any negotiations with the union.

I wish you would give this also some thought and let me know what position you take in this respect as this action really places the packers in rather an embarrassing position.

If for any reason you wish to talk to me before I return to Idaho Falls, I will be in Boise from Wednesday morning until I return here.

Very truly yours,

ELI A. WESTON

EAW:m

## BOARD'S EXHIBIT No. 20

(Copy)

March 4, 1942

Mr. W. P. Wilson  
Firth, Idaho

Dear Mr. Wilson:

On February 10, 1942 we mailed you a contract covering workers in your warehouse who are members of Local 983.

Under the National Labor Relations Act the law states that you must negotiate with a Union that represents 51% or more of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once what your position is in regard to negotiations.

Very truly yours,

LEE W. OWEN

Secretary-Treasurer

LWO AVW

BOARD'S EXHIBIT No. 22

(Cut)—Home of the Idaho Russet

W. P. Wilson

Idaho Potatoes

Box 114

Firth, Idaho

March 7, 1942

Teamsters, Chauffeurs, Warehousemen

& Helpers

Pocatello, Idaho

Attention Mr. Owen:

Your letter received today in regard to my attitude toward the labor contract received by me for the fore part of February.

As to negotiations, I thought it was understood that we, as potato dealers, went together as a group and employed Mr. Weston to do our negotiating, and I understand that he has been in touch with your representative, Mr. Hansen, at Idaho Falls.

Yours truly,

W. P. WILSON

WPW:wna

## BOARD'S EXHIBIT No. 23

Eli A. Weston  
Attorney at Law  
Boise, Idaho

March 8, 1942

Mr. Lee W. Owens  
Rogers Hotel  
Idaho Falls, Idaho

Dear Mr. Owens:

With reference to the matter of further negotiations or meetings on the contract presented to the potato packers, I was of the opinion you wanted to leave the decision to the results of last Saturday's meeting.

We are in the same predicament we were before the meeting and perhaps worse. While I realize we must obey the law on the subject, I am afraid of what the results would be if we do not respect the farmers' demands.

The packers are having their regular meeting Monday and I will be present. A decision will be made as to our procedure. We were somewhat delayed as to the farmer matter but I will advise you with reference to our progress after the meeting.

I will also call you or see you at the end of this week if I am in Idaho Falls.

Very truly yours,  
E. A. WESTON

EAW:MT

BOARD'S EXHIBIT No. 24

(Copy)

March 10, 1942

Idaho Falls Bonded Warehouse

Idaho Falls, Idaho

Gentlemen:

On February 16, 1942 we mailed you a contract covering workers in your warehouse who are members of Local No. 983.

Under the provisions of the National Labor Relations Act the law states that you must negotiate with a union representing 51%, or better, of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Your      Yours very truly,

LEE W. OWEN

Secretary-Treasurer

LWO AVW

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BOARD'S EXHIBIT No. 25

(Copy)

March 10, 1942

Mr. A. G. Stewart

Shelley, Idaho

Dear Sir:

On February 16, 1942 we mailed you a contract covering workers in your warehouse who are members of Local No. 983.

Under the provisions of the National Labor Relations Act the law states that you must negotiate with a union representing 51%, or better, of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Yours very truly,  
LEE W. OWEN  
Secretary-Treasurer

LWO AVW

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BOARD'S EXHIBIT No. 26

(Copy)

March 10, 1942

Mr. J. E. O'Neil  
Idaho Falls, Idaho

Dear Sir:

On February 13, 1942 we mailed you a contract covering workers in your warehouse who are members of Local No. 983.

Under the provisions of the National Labor Relations Act the law states that you must negotiate with a union representing 51%, or better, of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Yours very truly,  
LEE W. OWEN  
Secretary-Treasurer

LWO AVW



BOARD'S EXHIBIT No. 27

March 10, 1942

Idaho Falls Potato Growers Association  
Idaho Falls, Idaho

Gentlemen:

On February 13, 1942 we mailed you a contract covering workers in your warehouse who are members of Local Union No. 983.

Under the provisions of the National Labor Relations Act the law states that you must negotiate with a union representing 51% or better of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Yours very truly,

LEE W. OWEN

Secretary-Treasurer

LWO AVW

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BOARD'S EXHIBIT No. 28

March 10, 1942

Holden Brothers  
Idaho Falls, Idaho

Gentlemen:

On February 13, 1942 we mailed you a contract covering workers in your warehouse who are members of Local Union No. 983.

Under the provisions of the National Labor Rela-

tions Act the law states that you must negotiate with a union that represents 51% or better of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Yours very truly,

LEE W. OWEN

Secretary-Treasurer

LWO AVW

---

BOARD'S EXHIBIT No. 29

(Copy)

March 10, 1942

L. S. Taube & Company

Idaho Falls, Idaho

Gentlemen:

On February 13, 1942 we mailed you a contract covering workers in your warehouse who are members of Local No. 983.

Under the National Labor Relations Act the law states that you must negotiate with a union that represents 51% or better of your workers. The law also states that this must be done within a reasonable length of time. We would like to hear from you at once as to your position in regard to negotiating.

Very truly yours,

LEE W. OWEN

Secretary-Treasurer

LWO AVW

BOARD'S EXHIBIT No. 30

Eli A. Weston  
Attorney at Law  
Boise, Idaho

March 16, 1942

Mr. Lee W. Owens  
c/o Rogers Hotel  
Idaho Falls, Idaho

Dear Mr. Owens:

I expected to be present at the Packers' meeting today but was unavoidably detained. However, I expect to hear from them tomorrow morning, with reference to further negotiations or conferences.

While things appear to be going slowly, I believe we will get these things ironed out without any serious difficulties.

I realize that you, as well as all the rest of us, appreciate the seriousness of our present national crisis and the nervousness and tension under which all people are conducting their affairs and that any attempt to use force or to try and crowd them at this time would really do more harm than good. It would only deter rather than expedite peaceful relationships.

We are taking the position at this time that all of these members of the Shippers Association are to be considered individually as to their contracts. I have been informed that in several instances the Union does not have 51 percent of the employees even though you have presented contracts claiming 51 percent or more.

In this connection, I would like to take these contracts up with you one by one. If you care to do so, I would like to have you send me either the number or the names of those employees of the Hurley Packing Warehouse who are in your Union. There are three or four others in this same category whose names I do not have. I will send them to you in a day or two. I believe we should eliminate this question first.

Just as soon as I receive the results of Monday's meeting, I will communicate with you; although I did believe that you had taken the position that you could handle the farmers at your last meeting and that you would either convince them your position was correct or relieve us of the of further negotiations at this time—that was my idea of the purpose of that meeting.

However, I will let you know just as soon as I hear from Idaho Falls. Please send me the information I have requested.

Very truly yours,

E. A. WESTON

EAW:MT

BOARD'S EXHIBIT NO. 31

Eli A. Weston  
Attorney at Law  
Boise, Idaho

March 23, 1942

Mr. Lee W. Owens  
Rogerson Hotel  
Idaho Falls, Idaho

Dear Mr. Owens:

I attended the Shippers meeting Saturday night at Twin Falls; and after the meeting, which broke up rather late, I tried to get a quorum meeting with the committee handling the question of labor relations. I couldn't get all of them together.

However, I discussed our last meeting with them and told them the problem with which we were faced and mentioned that you have insisted that further negotiations be entered into without delay.

Those present at the meeting were still very much concerned about the farmer problem and re-affirmed the position that they understood you had agreed to relieve the pressure of the farmers so that the way would be open for constructive negotiations. This, of course, you have been unable to do. I also mentioned the fact that you have refused to take the employers' problems up in the order we have asked, but that you are insisting that they be taken up in the order you have presented the contracts.

On this point, I believe our position is the better one inasmuch as we should eliminate all questionable cases involving the 51 percent rule before we

proceed with the others. I mention this because if we can agree on the forms of contract, we will have eliminated all legal questions and will know to whom the type of contract will apply.

We also discussed somewhat the question of an industry-wide contract. I informed them that you had taken the position you could insist upon bargaining for the entire industry if you had 51 percent of all employees of all the employers in the industry. This position I very seriously question. Since talking with you I have re-examined some of the cases in point and therefore re-affirm my position that this is not consistent with the holdings in these cases. However, I might suggest that this point be submitted by a stipulation of facts to the National Labor Relations Board for an advisory opinion. In view of the fact that this is of such importance we could submit it immediately and receive an immediate answer. After receiving this opinion, we could act accordingly. Please let me know what you think of this idea.

I had a phone call last night from Mr. Goodwin from the Conciliation Service of the Department of Labor who is in Twin Falls. He has asked for a meeting with me for tomorrow morning. If I can find my clients, I will have to be at that meeting in the morning. If we can finish during the day, I expect to return to Boise in the evening and then will leave for Idaho Falls Thursday.

I will call a full meeting of this labor committee Thursday night and will notify you either Thursday night or Friday morning as to further negotiations



or discussions. Trusting this is satisfactory and that I will see you Thursday or Friday, I am

Very truly yours,

E. A. WESTON

EAW:MT

c.c. Carl Delong

C. R. Holden

Chris Christenson

F. L. Hansen

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BOARD'S EXHIBIT NO. 32

Eli A. Weston

Attorney at Law

Boise, Idaho

March 31, 1942

Mr. Lee W. Owen

140 South First Street

Pocatello, Idaho

Dear Mr. Owen:

I am sorry I was unable to get the committee together for a meeting. Mr. Delong was in Boise and it was impossible to get two of the creamery men in for the meeting. As soon as I found this out, I informed Mr. Hansen of the fact so that you would be saved the inconvenience and expense of a trip.

I will be in Idaho Falls again tomorrow to attend a meeting on another matter. I will again take the question up with these committees and notify you just as soon as we can arrange a meeting.

In the mean time, I will go over the creamery contract and submit such paragraphs in the contract as are acceptable to us in the form of a counter-proposal. This information I will send to Mr. Hansen.

Very truly yours,  
ELI WESTON

EAW:MT

c.c. Mr. Raymond Hansen

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BOARD'S EXHIBIT No. 33

April 3, 1942

Mr. F. L. Hansen

Idaho Falls Potato Growers, Inc.

Idaho Falls, Idaho

Dear Mr. Hansen:

Mr. Weston has asked me to write you that he is ill in bed and will be unable to attend your meeting Monday. He also asked if you would please notify Mr. McCracken.

Very truly yours,  
Secretary

c.c. Mr. Raymond Hansen

Mr. L. W. Owen

BOARD'S EXHIBIT No. 34

(Copy)

April 3, 1942

Mr. Eli A. Weston, Attorney  
Boise, Idaho

Dear Sir:

On or about March first you informed me that you represented most of the potato shippers and members of the Cooperative creamery in regard to labor negotiations.

We have had several meetings where nothing has been accomplished as far as negotiations are concerned. Your last letter, dated March 31, states that it was impossible for you to get the joint committees of the Idaho Falls Potato Growers Association and the Co-op Creamery together.

I feel this is not setting a policy to negotiate in good faith. Therefore, I can see no reason for further meetings until you have been able to show that you will negotiate in good faith. Therefore, we are filing charges against the Co-op Creamery and several potato shippers and yourself as their representative for failure to negotiate in good faith under the National Labor Relations Act.

If you wish to reach me at any time, you may do so at my office at 140 South First Avenue, Pocatello, Idaho.

Very truly yours,

LEE W. OWEN,

Secretary-Treasurer

LWO AVW

## BOARD'S EXHIBIT No. 35

Eli A. Weston  
Attorney at Law  
Boise, Idaho

October 24, 1942

Mr. Lee W. Owen,  
Teamsters, Chauffeurs, Warehousemen and  
Helpers Union No. 983  
140 South First Street  
Pocatello, Idaho

Dear Mr. Owen:

I am preparing the answers to be filed in the case in which you are Representative of the Union have charged the employers with: Interference with the Union, Discriminatory discharge of employees and Refusal to bargain.

With reference to the third charge, refusal to bargain, we are confronted with the very serious question of the right of the Union to ask us to bargain or the propriety of our bargaining without knowing the status of the Union as the bargaining agent.

Aside from the sending of the contracts (some of which have been withdrawn) and the demand on the part of the Union to bargain, we have never had any proof either by certification or otherwise that the Union represents 51 percent or more of any establishment's employees. We have never waived this and we take the position that this certification should be forthcoming as of this date or

as the date of the filing of the Complaint and not as of February, 1942.

We further contend that we have never been notified that you have 51 percent and that there is no obligation on our part to bargain. We now insist or make demand upon the Union to prove to us by certification or otherwise that they have the right to bargain for the employees in any of the respondents' places of business and that you have at this time 51 percent of this season's crew in the Union. Until this is established to our satisfaction or to the satisfaction of the Board we believe we would be violating the law and laying ourselves open to criticism or legal action for bargaining with one who is not the authorized agent.

Incidentally, I believe that we were making such good progress before this Complaint was issued that we could have had this matter straightened up in two weeks' time. Hansen and Holden were in Washington, Carl DeLong was sick in bed and two or three members of the Board were out of the City; otherwise I think our meeting Monday would have brought splendid results. I think it is unfortunate that this case was brought at this time. In view of our experience last time in the Creamery case I do not feel inclined to negotiate a contract with a hearing or Labor Board case in abeyance, especially where the work of preparing our defenses will take all of my time between now and November 2.

Please furnish us the information requested so that I can prepare our case accordingly.

With personal regards, I am

Very truly yours,

E. A. WESTON

EAW:MT

c.c. Mr. Ray Hansen

Mr. Louis Penfield

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Mr. Weston: The respondents at this time ask leave to amend paragraph six of their answer by including at the end of the paragraph these words, "and that the unit mentioned for the respondents L. L. Taube and the Idaho Falls Potato Growers, Incorporated, does not constitute a proper unit for the purposes of collective bargaining." [180]

Trial Examiner Barton: Is that the respondent L. L. Taube. I thought you said, "L. L. Taube." The reason I asked you is,—

Mr. Weston: Thank you. It is L. S. Taube & Company. Will you make that correction, Mr. Reporter? It should be "L. S. Taube & Company."

Trial Examiner Barton: And the other respondent was?

Mr. Weston: The Idaho Falls Potato Growers, Incorporated, is their correct name.

Mr. Babcock: It is the Idaho Potato Growers, Incorporated. It appears from the pleadings it is "Idaho Falls Potato Growers Association." I intend to move to amend the pleadings to conform the name to the testimony.



Trial Examiner Barton: The motion is granted.

Mr. Babcock: I move at this time to amend all of the pleadings and change the name of the Idaho Falls Potato Growers Association, wherever it appears, to Idaho Potato Growers, Inc.

Trial Examiner Barton: Is there any objection?

Mr. Weston: No objection.

Trial Examiner Barton: The amendment will be allowed. [181]

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L. W. OWEN,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Barton: State your full name for the record, please.

A. L. W. Owen.

Q. (By Mr. Babcock): Mr. Owen, before we start I want to hand you Board's Exhibits 11 to 35, inclusive, so that you may refer to them in the course of your testimony.

(Mr. Babcock hands papers to witness.)

Q. Where do you reside, Mr. Owen?

A. Pocatello, Idaho.

Q. What is your occupation?

A. Secretary-Treasurer of Teamsters Union, Local 983.

Q. That is the union which filed the charge in this proceeding?

A. Yes, sir.

(Testimony of L. W. Owen.)

Q. And the correct name of the union is stated in the Complaint in this proceeding?

A. Yes, sir.

Q. How long have you held that position with that organization.

A. With this particular organization, since the 27th of December, 1941. [182]

Q. Had you been connected with the Teamsters *Internation Union* prior to that time?

A. Yes, sir.

Q. For how long?           A. Since 1936.

Q. In what capacities?

A. Officer of different Teamsters Union.

Q. How did you happen to become connected with the Union at Pocatello in December of 1941?

A. I was sent in here to take over two local unions that was in here, which were consolidated into one.

Q. Where were the offices of those two local unions?

A. One was at Pocatello; the other at Idaho Falls.

Q. What were their respective numbers?

A. The one at Idaho Falls was Local 852, and the one at Pocatello was 440.

Q. After you came, how long did the charters of those two unions continue to be in effect?

A. In reality they were in effect until January 16th.

Q. And what happened at that time?

A. At that time there was a new charter that was granted from our International, consolidating both unions.

(Testimony of L. W. Owen.)

Q. Had the charters of the other two unions been revoked? A. Yes, sir.

Q. By whom? [183]

A. Revoked by our International.

Q. Were you in charge of the affairs of the two former unions from the date you first came to Pocatello in December to January 16th?

A. That is right.

Q. Since that time have you been secretary-treasurer of Local 983 continuously? A. I have.

Q. Since January 16th? A. That is right.

Q. And is that the date of the charter of Local 983? A. That is correct.

Q. What is the geographical jurisdiction of Local 983?

A. Comprises Pocatello, Idaho Falls and vicinity,—the state of Idaho and vicinity.

Q. Where is its office,—its main office?

A. The main office is at Pocatello, Idaho.

Q. Does it have any other office?

A. It has an office here in Idaho Falls.

Q. Does the union hold meetings of its membership? A. That is right.

Q. Does it attempt to engage in collective bargaining for its members and other employees?

A. Yes, sir.

Q. Has it collective bargaining agreements with employers? [184] A. Yes, sir.

Q. Does it, in other ways, function as a labor organization? A. That is right.

(Testimony of L. W. Owen.)

Q. As secretary-treasurer what are your duties?

A. Keeping the affairs of,—all financial affairs of the local; also organizing and collecting dues, and attending to all labor negotiations,—practically all affairs of the local.

Q. Are you the only full time officer of this particular local? A. No, I have one man.

Q. What is his name?

A. Ray Peterson, stated in Idaho Falls here, and also two secretaries.

Trial Examiner Barton: Are they both full time?

A. Yes, sir.

Q. (By Mr. Babcock): Those are stenographers, you mean? A. Yes, sir.

Trial Examiner Barton: What is Peterson's title?

A. He is business agent.

Q. How long has Ray Peterson been connected with the local in Idaho Falls?

A. Approximately three months.

Trial Examiner Barton: Is it "Ray Peterson, "A. Peterson?" [185] A. Ray.

Q. What type of workers are eligible for membership in the local union?

A. Anyone that is connected with warehouse work; creameries; the trucking industry; coal and lumber yards. I guess that covers about all of it.

Q. Are farm laborers eligible for membership?

A. They are not.

Q. Do you attempt to represent workers who are working in the fields with respect to that work?

(Testimony of L. W. Owen.)

A. We do not.

Q. Have you undertaken to represent and organize workers in potato warehouses and on the cellar crews working out of the potato warehouses?

A. That is right.

Q. In what vicinities?

A. Idaho Falls, Shelley and Firth; also Rexburg.

Q. When was that effort first taken, Mr. Owen?

A. Around the first week of January.

Q. Of what year?           A. 1942.

Q. Perhaps before I go into that I should develop the affiliation of your local union. With what Internationals is it affiliated?

A. With the International Brotherhood of Teamsters, Chauff- [186] feurs, Warehousemen and Helpers, American Federation of Labor.

Q. Is it affiliated with any councils of your International Unions?

A. You mean our particular local?

Q. Yes; your particular local.

A. Yes; we are affiliated with the Western Warehouse Council; the Western Dairy Council; the Western Produce Council; Joint Council of Teamsters, Local 67; and the Western Conference, which comprises eleven western states.

Q. Is Ray Hansen connected with the local union, or affiliated with the local union?

A. At the present time he is connected with Joint Council 67. Prior to about two or three weeks ago he was connected with the Warehouse Council.

Q. Prior to about what?

(Testimony of L. W. Owen.)

A. About two weeks ago.

Q. What was his position with the Warehouse Council?      A. Organizer.

Q. Referring again to the initial attempt to organize the potato workers which you say was started in January, who was in charge of that work? What persons?

A. Mr. Ray Hansen and myself.

Q. Did you come to Idaho Falls at that time around the first of January?      A. Yes. [187]

Q. Both you and Mr. Hansen?

A. That is correct.

Q. And how long did you remain here?

A. Off and on, I remained here until the present time.

Q. How long did Mr. Hansen remain here?

A. He stayed here until around some time in,— I think it was the latter part of March, if I am not mistaken.

Q. Did you and Mr. Hansen work together on this work?      A. Yes, sir.

Q. Which one of you took the more active part with respect to the organization of the workers?

A. Mr. Hansen.

Q. Were you here at the very beginning of his initial attempts to organize the workers?

A. Yes, sir.

Q. As a result of those attempts did you receive applications for membership, and designations as bargaining agent, from workers in the warehouse and cellar crews?      A. Yes, sir.



(Testimony of L. W. Owen.)

Q. In the Idaho Falls area? A. Yes, sir.

Q. When did you have your first meeting in Idaho Falls for these workers?

A. If I am not mistaken it was called for the fourteenth of January, when the notices were sent out,—it was either the [188] fourteenth or the sixteenth we had our first meeting for the potato workers.

Q. Were you here at that time?

A. Yes, sir.

Q. Approximately how many workers attended the meeting?

A. I would say there was in the neighborhood of one hundred and fifty.

Trial Examiner Barton: What date was that?

A. It was either the fourteenth or sixteenth of January. I am positive it was the fourteenth.

Mr. Babcock: I will ask that this paper be marked as Board's Exhibit No. 36 for identification.

(Thereupon, the document hereinabove referred to was marked as Board's Exhibit No. 36, for identification.)

Q. I refer you to what has been marked for identification as Board's Exhibit No. 36, which purports to be a notice. Will you state what that is, and whether you have seen it before?

A. This is a notice that was sent out calling attention of all potato workers to,—

Q. Don't read it, Mr. Owen. It was a notice of a meeting? A. It was a notice of a meeting.

Q. Was that notice for the first meeting?

(Testimony of L. W. Owen.)

A. I think it was a notice that was,— [189]

Q. If you are not able to state for sure, just say so, Mr. Owen.

A. This, I am positive, was our first meeting for that matter.

Q. And the date of the meeting was January 16th? A. That is right.

Mr. Babcock: I offer this notice in evidence.

Mr. Weston: No objection.

Trial Examiner Barton: It may be admitted.

(Whereupon, the document heretofore referred to and marked Board's Exhibit No. 36 for identification, was received in evidence.)

Q. After this, did you continue to have meetings of workers here? A. That is right.

Q. Were they organizational meetings?

A. Yes.

Q. By February 10th, approximately how many workers had either applied for membership, or designated the Union as their bargaining agent?

A. At that time I imagine we had around three hundred, or a little better, that was signed up.

Mr. Weston: May I ask if that includes your warehouse employees in the potato sheds.

Mr. Babcock: I meant to confine the question to the [190] workers of these crews, in the warehouse and cellar crews.

Trial Examiner Barton: Is that the way you understand the question? A. No.

Trial Examiner Barton: You may amend your answer accordingly, then.

(Testimony of L. W. Owen.)

A. I don't know the exact number, or how many we had signed up, but we had the majority in quite a few of the potato sheds in this locality.

Q. (By Mr. Babcock): And your total membership was approximately three hundred?

A. That is right.

Q. Referring there to those exhibits, Boards Exhibits 11, 12, 13, 14, 15, 16, 17 and 18, which are letters which you sent to certain,—to the respondents in this proceeding, I will ask you to state whether the identical letters were sent to other shippers, other potato shippers employing warehouse crews?

A. You mean the original of these?

Q. Yes.           A. Yes.

Q. I am asking whether originals,—identical letters in the same form were sent to shippers other than those named in these letters and involved in this case,—perhaps I can shorten this by asking you whether at the same time, or [191] approximately the same time those letters were sent, identical letters were sent to the following potato shippers employing warehouse crews: Nephi Fielding?

A. That is right.

Q. N. S. Sage?           A. Yes, sir.

Q. R. S. Wilson?           A. Yes, sir.

Q. Atlantic Commission Company?

A. Yes, sir.

Q. Henry Hurley?           A. Yes, sir.

Q. Holland and Regan,—or Regan & Holland, Shelley?           A. Yes, sir.

(Testimony of L. W. Owen.)

Q. Do you recall of any others letters were sent to at that time that I haven't mentioned?

A. No; I don't.

Trial Examiner Barton: Is it your recollection any others were sent, even though you can't remember the names of the shippers?

A. Besides these? I think not.

Trial Examiner Barton: All right.

Mr. Babcock: Just a moment. I want to check that to see that we have got them all.

Q. (By Mr. Babcock): Did I mention Chris Christensen? [192] If I didn't, did you send a letter to him? A. Yes, sir.

Q. Now, what reply, or response, if any, did you receive from these letters you sent out?

A. None at that time.

Q. I refer to Board's Exhibit No. 19, and ask you to state whether that is the first reply, either written or oral, you received to the letters you had sent? A. This is the first written reply we received. [193]

Q. Following the receipt of this letter from Mr. Weston, which is Board's Exhibit No. 19, did you have any meetings with any of the employers, or any of the representatives of employers?

A. I did not,—following the meeting, did you say?

Q. No; after you received this letter from Mr. Weston which I referred to as Board's Exhibit No. 19 in which he states in the last paragraph, that he

(Testimony of L. W. Owen.)

plans to return to Idaho Falls, did you talk to Mr. Weston subsequent to this letter dated February 24th,—after the letter, after you got this letter?

A. Oh, yes. [194]

Q. When was the first time you talked personally to Mr. Weston about these particular cases, or these particular contracts?

A. It was some time after receiving the letter.  
[195]

Q. I refer to this exhibit, Board's Exhibit No. 37, and to the second paragraph thereof, does that refresh your recollection as to the date of your first talk with Mr. Weston on these cases? A. Yes.

Q. And what was the date you first talked to him?

A. The first meeting was had with Mr. Weston was on the second of March.

Q. Now, prior to that time had,—other than the letter from Mr. Weston, Board's Exhibit No. 19, had you received any communications from any of the shippers or their representatives with respect to negotiations? A. No.

Q. What was taking place during this intervening period with respect to negotiation of contracts for these employees?

A. There was nothing in regard to negotiations taking effect. The only thing we were doing was organizing more of the workers in this locality.

[196]

Q. How was the meeting on March 2nd arranged,—at whose instance?

(Testimony of L. W. Owen.)

A. Mr. Weston called Ray Hansen, if I am not mistaken, for the meeting, although I think Ray Hansen asked to have that meeting on March second.

Q. You don't know about that then? You don't know actually how it happened?

A. I don't know how it happened, as I was not up there at the time.

Q. There was a previous appointment made before the meeting? A. That is right.

Q. Where was the meeting held?

A. At the Rogers Hotel.

Q. What persons were present at the meeting or the conference?

A. There was Ray Hansen, Walter Graham,—

Q. Where did he work?

A. At the Co-op creamery.

Q. That is the Upper Snake River Valley Dairymen's Association? A. Yes, sir. [197]

Q. Of which E. S. Track is the manager?

A. That is right. And Mr. Weston and myself. I also think Milo Rash,—

Q. Who is Milo Rash?

A. He was a worker at the Potato Growers Association; also a member of our union.

Trial Examiner Barton: Was Graham of your union? A. Now?

Trial Examiner Barton: No; was he at the time of this meeting? A. Yes.

Trial Examiner Barton: I just wanted to identify him.



(Testimony of L. W. Owen.)

Q. (By Mr. Babcock): Mr. Owen, during this same time, or approximately the same time that you undertook your negotiations with the potato growers, were you also attempting to negotiate with the Co-op Creamery? A. Yes, sir.

Q. Did Mr. Weston also represent the Co-op Creamery? A. He did.

Q. And Mr. Graham, was he the delegate from the crew there? A. He was.

Q. Is that also true of Rash, that he was a delegate from the crew? [198] A. He was.

Trial Examiner Barton: Where was Rash from?

A. From the Potato Growers Association.

Q. (By Mr. Babcock): Had Mr. Rash taken any particular part in the union up to this time? If so, what part had he taken?

A. Yes; he helped us organize the different workers, especially in the Potato Co-op, and attended all of our meetings, and assisted Ray Hansen in organizing the workers.

Q. During what period of time did he do that? When did it start?

A. It started around the middle of January.

Q. Going back to the meeting again, have you named all of the persons that were present at the meeting? A. To my knowledge; yes, sir.

Q. You say the appointment was at two o'clock. What time did Mr. Weston arrive?

A. Around four.

Q. Did you wait for him? A. Yes, sir.

(Testimony of L. W. Owen.)

Q. How long did you talk with him after he arrived?

A. As I recall, we talked for about two hours that day. [199]

Q. Was Mr. Weston the only representative of any of the employers who was present at the meeting?

A. At that meeting, yes.

Q. I refer you to Board's Exhibit No. 38 for identification which purports to be a copy of a wage scale and agreement, and I will ask you to check through that and state whether you know what it is.

A. Yes, sir; it is the agreement we presented to the shippers.

Q. This is a copy of the agreements?

A. That is right.

Q. Were identical agreements sent to all the employers involved in this case?

A. Yes, sir.

Q. Were those sent,—were those enclosed with the letters, Board's Exhibits twelve to eighteen, inclusive?

A. They were.

Q. Were they also sent to other shippers to whom you sent [200] letters?

A. They were.

Mr. Babcock: We offer in evidence Board's Exhibit No. 38 for identification.

Mr. Weston: We have no objection.

Trial Examiner Barton: It may be admitted.

(Thereupon, the document heretofore marked Board's Exhibit 38 for identification, was received in evidence.)

(Testimony of L. W. Owen.)

BOARD'S EXHIBIT No. 38

(Copy)

WAGE SCALE AND AGREEMENT

Agreed to and to be in effect between.....  
and all territory and Local Unions of the I. B. of  
T., C., W. & H. of A., as represented by Joint  
Council of Teamsters, #67, of Utah and Southern  
Idaho, hereinafter designated as the Union.

Article I.

Section A. Members in good standing of the  
Union only will be employed, except should the  
Union not be able to furnish satisfactory men, or  
if the Union men are not available, non-Union man  
or men, woman or women, as the case may be, may  
be employed, but must make application to become a  
member of the Union the first week he, or she, or  
they are employed, and if found satisfactory to the  
Employer and worthy to the Union after two (2)  
weeks' employment, he, she or they will be admitted  
to full membership in the Union and must com-  
plete their affiliation within thirty (30) days.

Section B. The Employer hereby reserves the  
right to discharge any man or men, woman or  
women in his or its employ furnished by the Union  
to them, if the work is not satisfactory to the Em-  
ployer. Any man or woman under dispute may  
appeal to the Manager or the Union, or both.

Section C. No workman shall be discharged or  
discriminated against for upholding Union prin-

(Testimony of L. W. Owen.)

ciples and any man or woman who works under the instruction of the Union shall not lose his or her position or be discriminated against for this reason; and it shall not be a violation of this Agreement for an employee to refuse to go through a picket line established by an A. F. of L. organization. This Union is not in favor of sympathetic strikes and will do everything honorable to prevent them.

Section D. No employee member of the party of the second part, who, prior to the date of this Agreement was receiving more than the rate of wages designated in this schedule, or working under more favorable working conditions, than contained herein for the class of work in which he or she was engaged, shall suffer a reduction of wages or work under less favorable conditions through the operation or because of the signing of this Agreement.

Section E. All work performed on Sundays, New Year's Day, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day, or days observed as such, shall be paid for at the rate of time and one-half of the regular hourly rate provided, however, that employee assigned regularly to Sunday or holiday work for the continuous operation of the company's business will be compensated at the regular rates.

In the event employee is assigned other days than Sundays or holidays as his or her day off, and is then required to work on said assigned day off, he or she shall be compensated for all work performed

(Testimony of L. W. Owen.)

on said day at the rate of his or her regular rate of pay, in addition to his or her regular rate of pay plus one-half ( $1\frac{1}{2}$ ) his or her regular rate of pay, in addition to his or her regular hourly or monthly wage.

Section F. Employees covered by this Agreement, when drafted for military service, shall be reinstated upon their release from such service in accordance with the provisions of the Selective Training and Service Act.

Section G. In the event that.....engages in a line-haul operation between the jurisdiction of Union, they shall compensate drivers in accordance with the long-line freight agreement in effect in the area in which they operate.

Section H. Both parties hereto further recognize and agree that industrial peace is to be desired at all times in the area covered by this Agreement, and to that end it is agreed:

1. For the purpose of adjusting differences or controversies relative to the application or interpretation of any of the provisions of this Agreement, a Board of Arbitration is hereby created, to consist of two representatives of each party hereto. In the event that an agreement cannot be reached, members of said board shall select a fifth (5th) member who shall be a disinterested party. The findings and decisions of said Board of Arbitration shall be final upon both parties of this Agreement.

2. Any complaint or other matter for consideration of the Board of Arbitration shall

(Testimony of L. W. Owen.)

first be investigated by the party hereto representing the person making the complaint, then filed in writing, with all supporting evidence, with the Board of Arbitration, and such Board of Arbitration shall be required to render a decision in not to exceed seven (7) days, not including Saturdays, Sundays and legal holidays.

3. That complaints relative to the proper rate of pay or amount of pay due any employee under existing wage scales need not be submitted to the Board of Arbitration. Such complaints shall first be investigated by the Union having jurisdiction over the person making the complaint and then filed in writing, with all supporting evidence, with the Employer for investigation and adjustment, and if within five (5) days, not including Saturdays, Sundays or legal holidays, after the receipt of such complaint, the Employer has not been able to adjust the complaint to the satisfaction of the Union, the Union shall have the right to take action against the Employer against whom the complaint has been filed.

3a. All complaints regarding wages or overtime must be turned into the secretary of the Union in writing and signed within not to exceed two (2) pay days; otherwise the Company will not be required to make a settlement. Said member violating this clause will be subject to a fine or suspension by the Union.



(Testimony of L. W. Owen.)

4. In the event that any matter is submitted to the Board of Arbitration which pertains to proper compensation to any employee, member of the Union covered hereunder, and the Board of Arbitration finds that a violation of the Agreement has existed, then and in that event the Board of Arbitration shall be required hereunder to make the decision retroactive to the date on which the first violation occurred.

5. The Board of Arbitration as hereinunder set forth, shall not handle negotiations for a new agreement or changes in the wage scales, hours of work, or working conditions, which are a part of this Agreement.

Section I. The Employer agrees that extra men will not be employed where the employment of such extra men will have the effect of reducing the hours of the regular men employed below forty-eight (48) hours in any one week, and in the event that the Employer, or any authorized agent of the Employer, does make a practice of employing extra men in violation of this understanding, the Union shall have the right to refuse to furnish any extra men to such Employer or his authorized agent.

Section J. In the event employee covered by this Agreement, based in one classification work in another classification, he or she shall be compensated for the entire day so worked on the wage scale in effect in the highest classification in which they perform.

(Testimony of L. W. Owen.)

Section K. Section I of this Agreement shall apply, in its entirety, to all Local Unions affiliated with Joint Council #67. Wage scales and working conditions for the various Local Unions covered by this Agreement shall be attached to and become a portion of Article II of this Agreement.

Section L. All benefits and privileges now in effect concerning the employees shall continue and extend to all new employees.

Section M. Present employees of the Employer whose earning capacity is limited because of age or physical handicaps, may be employed, where practicable, on light work at a wage suitable to the Employer and the Union.

## Article II.

Section A. Regular employers shall mean men and women employed in potato warehouses who have assignments of work in the normal course of the operation of the various systems employed and who are not subject to daily dispatch through the office of the Union.

Section B. Extra men as hereinafter defined shall be paid at the regular rate of the classification in which they are worked, plus ten (10c) cents per hour, except in the event that they are guaranteed nine (9) hours work or more in any one day, they or he, as the case may be, may be paid at the basic rate for the classification, herein provided, under which he is worked.

Extra men shall mean men hired by the day in

(Testimony of L. W. Owen.)

emergency periods of work that are in excess of the regular employees' complement, and shall be required to clear through the office of the respective Union covering the jurisdiction in which he is working.

Section C. No extra man or woman will be allowed to work overtime except when the regular crew also works overtime.

Section D. Effective on the signing of this contract in Idaho Falls:

Nine (9) consecutive hours within an eleven (11) hour period shall constitute a day's work, and fifty-four (54) hours shall constitute a week's work, Monday through Saturday inclusive. All time worked over nine hours in any one day or over fifty-four (54) hours in any one week shall be considered overtime, except drivers may be worked twelve hours within a thirteen-hour period before overtime starts. There shall be no time deduction for meals on continuous operation.

All employees covered by this Agreement, in all territories, shall be compensated for all overtime worked at their regular rate of pay plus one-half ( $\frac{1}{2}$ ) their regular rate of pay.

Section E. Employees called to work shall receive not less than four hours' pay or four hours' work, time to start when ordered to report for work. It is not intended that this provision shall apply when employees are required to work additional time in excess of the regular nine (9) hour

(Testimony of L. W. Owen.)

day; such additional time in such case may be less than four (4) hours. All men and women shall be notified the night before.

Section F. The pay shall start for all country crews and shall continue from the time they depart from a designated point and until they return to a designated point at quitting time.

There shall be a minimum of nine (9) men on all country crews providing the truck driver does not take the place of a crew man; in that event there shall be ten men to a crew.

The Company shall furnish transportation to and from country.

Section G. When it becomes necessary to reduce the working force at said....., seniority shall prevail with respect to all regular employees, qualifications being sufficient, namely: the practice will be for the management to lay off first those employed shortest in time of service.

In rehiring, seniority shall prevail, and the practice will be that the regular employee with the longest service record with said..... will first be rehired.

Further, no new men will be hired until all former available competent and regular employees employed at the time of the signing of this Agreement have been afforded an opportunity to return to work.

(Testimony of L. W. Owen.)

### Wage Scale

The wage scale shall be as follows:

To all men not otherwise classified.....	65c per hour
Truck drivers shall receive.....	75c per hour
Sackmen shall receive.....	70c per hour
Working foremen shall receive.....	\$35.00 per week
Grader men and crew foremen shall receive .....	75c per hour
Shipping and receiving clerks shall receive .....	75c per hour
Mechanics shall receive .....	80c per hour

The basis of determination shall be the United States Department of Labor index of all goods purchased by wage earners and lower salary workers (all items) for the mountain area. Should the cost of living index increase or decrease beyond the index for ..... months, 1942 by two points or majority fraction thereof, wages will be increased or decreased one cent per hour for each two points or majority fraction thereof of increase or decrease. Increases or decreases to the above basic wages when made will become effective on January 1, April 1, July 1, and October 1 of each calendar year and the amount of the increase will be applied to the basic wage for the quarter beginning on those dates and will be determined as above provided by the difference between the ..... month, 1942 index or .....amount and the index of each February 15, each May 15, each August 15 and each November 15 during the life of the Agreement.

(Testimony of L. W. Owen.)

Plant Employees—Female

1. Should any female employees be used in any classifications listed elsewhere in this Agreement, they shall receive the same rate of pay as specified for male employees.

2. No female employee shall be employed for more than eight (8) hours per day within nine hours nor more than forty-eight hours per week.

All female employees shall be allowed at least two ten minute rest periods, one in the forenoon and one in the afternoon.

Article III.

This Agreement is to continue and remain in full force and effect and to be binding upon the respective parties hereto from....., except that either party may open Article II of the Agreement covering wages and working conditions on ..... 1942 or any..... the 1st thereafter by serving notice in writing upon the other party of its desire to open Article II for the purpose of discussion and/or amendment, said notice to be served at least thirty (30) days prior to the first day of .....in any year. Upon the opening of this contract as of any.....the 1st, the amendments agreed upon shall be effective as of the ..... 1st upon which the agreement is opened,



(Testimony of L. W. Owen.)

irrespective as to the length of time which may be consumed in negotiations or amendments.

TRUCK DRIVERS & WARE-  
HOUSEMEN LOCAL UNION  
No. 983

By .....

By .....

Employer

.....

By .....

—

Q. At this meeting on March 2nd, was that confined solely to discussion of the question of the negotiation of an agreement for the potato shippers, or was there also some discussion of the Co-op Creamery situation?      A. Both.

Q. Will you relate the discussion that took place at that meeting, stating,—naming the persons who made the statements you testify to, and giving it to us in approximately the order in which it took place, the March second meeting?

A. As I recall, Mr. Weston stated that he had just attended a meeting, and that with the attitude the Grange and the farmers were taking he didn't see how it was going to be possible that we could reach an agreement until that was straightened up, or negotiate an agreement.

Q. Before you go on, did he say what meeting he had just [201] attended?

(Testimony of L. W. Owen.)

A. As I recall he attended a meeting of the shippers, of the traffic association.

Q. Was this on a Monday?

A. I think it was.

Q. Go ahead now and tell the rest of the discussion there on March second in the hotel?

A. At that particular meeting that was about all that was discussed, was the meeting of the Granges.

Q. I believe you said this meeting lasted two hours, or approximately two hours?

A. That is right.

Q. What was the discussion that took two hours at that time?

A. Well, from the activities the Grange was going through, it could have taken longer than two hours to discuss that.

Q. Tell us what you discussed and what was said.

A. He stated the Granges were holding meetings at different places,—I think the first was at York,——

Q. Who said that?

A. Mr. Weston. And it would be impossible for us to negotiate with the feeling they had toward the shippers, and that matter would have to be cleared up before we could get any further with the negotiations, for there had never been anything to start with. [202]

Q. Was there any discussion of what had taken place at the York meeting?

(Testimony of L. W. Owen.)

A. Yes, there had been certain resolutions that was passed where the farmers would refuse to sell any merchandise to a shipper or a firm that negotiated any contracts with us, without a farmer's representative being on the negotiating committee.

Q. Did Mr. Weston report to you whether or not he had attended that meeting at York?

A. He stated,—I understood he had, for he admitted he was.

Q. Now, what if anything, did you say at this time, you or Mr. Hansen, to Mr. Weston in response to the statements he had made?

A. I told him I didn't think the Grange had any business of sticking their nose in affairs of the Union, as we were not dealing for any employees of farm help, or farmers.

Q. Had you finished? Is that the substance of what you said, or were there any additional statements you made?

A. I might have made additional statements. Naturally there was more that was said during the conversation, but I think that is practically all I said at that meeting.

Trial Examiner Barton: Did Mr. Hansen say anything that you recall, other than what you have related? A. Yes; I think he did. [203]

Trial Examiner Barton: What was said?

A. I can't recall right now, but I know he entered into the conversation.

Trial Examiner Barton: You don't recall anything that he said?

(Testimony of L. W. Owen.)

A. Not right offhand; no.

Q. When you made your statement in substance that you weren't attempting to represent any farm workers, what, if anything, did Mr. Weston say in reply to that?

A. Mr. Weston stated we would have to recognize the farmers,—I mean the Grange, if we were going to deal at all with the shippers.

Q. Now at the conclusion of this meeting, was there any agreement reached between you and Mr. Weston in respect to any further meetings?

A. Yes; we was to hold a meeting the next day.

Q. Who was to hold a meetinf?

A. Mr. Hanson, myself and Mr. Weston, and he said he would bring one of the shippers with him.

Q. Was an appointment made for that meeting?

A. Yes, sir.

Q. Where, and when?

A. At the same place, the Rogers Hotel, at two o'clock in the afternoon.

Q. At whose request was the appointment made? [204]

A. I think it was just mutually agreed between the parties at that first meeting that we would meet the next day.

Q. Did you meet?                    A. We did.

Q. And were the persons present that you have named?

A. No; there was just Mr. Hansen, Ray Hansen, Mr. Farrel Hansen, Mr. Weston, and Milo Rash and myself.

(Testimony of L. W. Owen.)

Q. Just relate for us, Mr. Owen, what took place at that meeting from the beginning of it?

A. It was a reoccurrence of the meeting the day before. They still took the position it would be impossible to negotiate with us as long as the Grange and the farmers had taken the position that they would not sell any of the shippers that dealt with us, without a farm representative, and at my request I asked Mr. Weston if he could arrange a meeting with the Grange to go over the contract as we had presented it, as at this meeting of the Grange they had stated we were asking for an eighty-three and seven-tenths per cent increase in wages, which was false; also that we were asking for a thirty-five dollar a week minimum, which was also false; and I told Mr. Weston that I didn't think the contract had been gone into thoroughly at this Grange meeting, or they wouldn't have made these statements. And Mr. Weston stated that he would arrange a meeting, if possible, which was to be held on Friday night, although the [205] meeting wasn't held until Saturday night.

Q. The following Saturday?

A. That is right.

Q. Did Mr. Farrel Hansen participate in the discussion at this time?

A. Yes, sir.

Q. What did he say?

A. On the March third meeting he took practically the same position as Mr. Weston had taken, that they couldn't deal with us as long as the Grange had passed certain resolutions.

(Testimony of L. W. Owen.)

Q. What other statements, if any, did Mr. Hansen make?

A. Mr. Hansen wanted to know why we had started an organization in Idaho Falls, and I stated that we had anticipated coming in here for the past two years, but this was the first we was sent in here, was the first of January; that we didn't intend to organize any of the potato workers until this fall, the fall of 1942, but certain workers had come up to us and asked that they be organized, and we put on a campaign to organize them, and practically every day there was a group that was coming up to either Mr. Hansen's room or my room to join the union. [206]

Q. Just go ahead and say anything else Mr. Hansen stated at this meeting,—which you recall that Mr. Hansen stated.

A. He didn't think we should come up here to organize the potato workers, as this was a farming community and they were getting along very good without us.

Q. Did you make any reply to that?

A. Yes; I did.

Q. What was the reply you made?

A. I told him we intended to stay here until they were all organized.

Q. Now, have you concluded your testimony as to the conversations at the meeting of March third?

A. As I recall it; yes.

Trial Examiner Barton: How long did that meeting last?



(Testimony of L. W. Owen.)

A. That meeting didn't last very long?

Trial Examiner Barton: Well, how long,—half an hour?

A. I would say an hour at the most, that meeting lasted.

Q. Prior to this time had you ever been,—prior to the [207] time of this meeting, had you ever been asked by any of the shippers to explain the contract you submitted to them, or to the farmers?

A. I had not.

Q. You mentioned in your testimony that you told Hansen,—or told Mr. Weston and Mr. Hansen at this meeting that a statement which had been made that you were asking for a thirty-five dollar minimum was false. Will you explain if you had requested any thirty-five dollar minimum, and if so, for what worker?

A. Yes; we had requested a thirty-five dollar minimum for a working foreman, and there is only one particular house in this area that had a working foreman, and he was getting paid within a few dollars of that figure, any way.

Q. What house was that?

A. L. S. Taube.

Q. With reference to the discussion that was had at the March third meeting about a meeting on Friday, which was later held Saturday, and which you attended, will you state what discussion there was as to how the arrangement for the meeting was to be made, and what persons were to be invited to the meeting?

(Testimony of L. W. Owen.)

A. As I recall, I told Mr. Weston I would like to attend a meeting of farmers and explain to them what that contract meant, as I didn't think it had been explained at the Grange [208] meetings, or they couldn't have arrived at those figures. Mr. Weston and Mr. Farrel Hansen stated they thought they could arrange that, and it was agreed it was to be arranged for Friday night.

Q. Who was to take care of inviting the people to the meeting?      A. Mr. Weston.

Q. Was there any discussion as to what persons should be invited?

A. To my knowledge, I thought it was to be farmers and the leaders of the Grange, and whatever shippers wanted to attend, also.

Trial Examiner Barton: Was anything said at this meeting as to whether farmers were to be invited?

A. Yes, sir.

Trial Examiner Barton: What was said about it?

A. Mr. Weston stated he would see how many he could get to attend the meeting.

Q. State whether at the meeting of March third you stated in substance or effect that if you could not pacify the farmers you would withdraw your demand for a contract for these operations?

A. There was nothing stated that way at all, at any meeting.

Q. Did you attend the meeting on Saturday?

A. I did. [209]

(Testimony of L. W. Owen.)

Q. That was the following Saturday, March seventh, is that correct? A. That is right.

Q. Where was the meeting held?

A. At the Bonneville Hotel.

Q. Whereabouts in the Bonneville?

A. In one of the,—I imagine it would be one of the conference rooms they have there.

Q. Approximately how many people were in attendance at the meeting?

A. Between fifty and sixty, as I recall.

Q. Did you know any of them,—any of the persons there? A. Yes.

Q. Who presided at the meeting?

A. Mr. Weston.

Q. In addition to yourself, was there any other union representatives present? A. There was.

Q. Who were they? A. Mr. Hansen.

Q. That is Ray Hansen?

A. Yes, sir; Ray Hansen,—one other representative and myself.

Q. Who was the other one,—just two representatives, you and Hansen? [210]

A. Walter Graham was one,—I don't know who the other one was.

Q. Were there any workers in the warehouses present? A. There was.

Q. Were there any of the employers, the shippers, present? A. There was.

Q. And can you name any of those you recognized?

(Testimony of L. W. Owen.)

A. J. E. O'Neil, Mr. Holden,—those are two that I know was there. There was others there, also.

Q. Name any farmers you know who were present.

A. I don't know whether they are farmers, they belong to the Grange, I know that. I couldn't recall whether they are farmers or not.

Q. Give us their names.

A. Mr. Taylor, the head of the Grange.

Q. Which Taylor is that?

A. The Master of the Grange.

Q. Which Taylor is that?

A. I don't recall his first name. I know it is Mr. Taylor, Master of the Grange.

Q. Is it E. T. Taylor, of Coeur d'Alene?

A. That is the one.

Q. Do you know whether he grows any potatoes?

A. I don't think so.

Q. Now, name any others, farmers or otherwise. [211]

A. There was an officer by the name of,—an army officer by the name of Anderson, who claimed to be a potato grower prior to going into the army. At the present time that is all the names I can remember, although I have met quite a few of them since that time.

Q. Do you know a Luke Williams who is connected with the Grange?

A. I do not. I probably have met him, but I don't remember.

(Testimony of L. W. Owen.)

Q. Do you know whether he was there?

A. He might have been.

Q. Do you know a Elmer Williams?

A. No, I don't know him, only just at that meeting, was all.

Q. Was he present?                      A. He was.

Q. Do you know where he lives?

A. I do not.

Q. Does he live in Idaho Falls, or vicinity, do you know?

A. I haven't the least idea.

Mr. Babcock: Just a moment, Mr. Examiner. I want to refer to my notes a minute.

Q. Did anybody take minutes of this meeting?

A. Yes.

Q. Who did that?                      A. Ray Hansen.

Q. What was the outcome of the meeting, without going into [212] the details of the meeting?

A. It broke up in a row, right near to a free-for-all, the way it looked to me.

Q. Between whom?

A. Between Mr. O'Neil and myself.

Q. By that you mean an argument?

A. That is right.

Q. Did you and the union representatives leave the meeting before the meeting was concluded?

A. That meeting was concluded, although they were asked to stay there to hold a further meeting among themselves.

Q. Who were asked to stay there?

(Testimony of L. W. Owen.)

A. All of the ones present with the exception of the union representatives.

Q. Did the workers stay? A. No.

Q. Do you recall the names of the workers who were there at that meeting?

A. Offhand, I can't.

Q. Was there any attempt made at that meeting to negotiate any terms of the agreement?

A. No; there wasn't.

Q. Refer to the group of exhibits there, Mr. Owen. I refer you to a group of letters which are marked Board's Exhibit 24 through 29, which are addressed to various of [213] the respondents here, also another letter of similar character marked Board's Exhibit No. 20. Will you just look through those so you know what they are?

(Mr. Babcock hands papers to witness.)

A. Yes; those are letters we sent out.

Q. Did you ever receive any reply to any of those letters from any of the employers, other than Board's Exhibit No. 22, Mr. Owen?

A. Only from W. P. Wilson, is the only one.

Q. That is Board's Exhibit No. 22?

A. That is right.

Q. You did receive some further correspondence from Mr. Weston?

A. After that meeting of the seventh?

Q. Yes. A. Yes, sir.

Q. Now, will you refer to Board's Exhibit No. 22,—I believe it is 22,—a letter from Mr. Weston dated March 8th, do you find that?



(Testimony of L. W. Owen.)

A. 22 here is a letter from Wilson.

Q. No. 23 then, I guess. It is 23. I refer you to the last paragraph of that letter. Will you read that over to yourself. I will ask you whether Mr. Weston called you at any time that week?

A. He did not. [214]

Q. Did he call you at any time the following week? A. I think,——

Q. Perhaps we can shorten it this way: Refer to the letter you have there in your hand from Mr. Weston dated March sixteenth,—will you do that, Mr. Owen,—refer to the letter dated March 16th from Mr. Weston, Board's Exhibit No. 24.

A. Yes.

Q. Between the time you received the letter of the eighth and the letter of the sixteenth, did Mr. Weston call you, or did you have any conversation with him? A. He did not.

Q. When was the next time you heard from Mr. Weston?

A. It was,—he called Mr. Hansen on March 18th.

Q. Where? A. At the Rogers Hotel.

Q. Did you have a meeting with him that day, or a conversation with him?

A. We had a meeting.

Q. How was that arranged?

A. It was arranged by telephone with Mr. Hansen and Mr. Weston.

Q. For what place?

A. For the Rogers Hotel.

(Testimony of L. W. Owen.)

Q. At what time? [215] A. Two o'clock.

Q. Did Mr. Weston meet you that day?

A. He did, at four o'clock in the afternoon.

Q. Where? A. At the Rogers Hotel.

Q. Did you wait for him during that time?

A. I did.

Q. What was discussed at that,—pardon me,—  
what persons were present at that meeting?

A. Mr. Hanson and myself.

Q. And Mr. Weston? A. That is right.

Q. Anyone else,—any of the employers there?

A. No.

Trial Examiner Barton: You refer to Ray Hansen, do you?

A. That is right, Ray Hansen.

Mr. Weston: What was the date of that meeting?

A. The eighteenth.

Q. What subjects were discussed at that meeting?

A. At that meeting Mr. Weston stated that he didn't think we had the majority in some of the sheds, and I told him we would present applications, or proof whenever we started negotiations.

Q. And did he give you the names of the sheds in which he [216] said you didn't have a majority?

A. The only one he said was Hurley.

Q. Proceed and relate what was said at the meeting there with respect to this matter, these cases.

A. He wanted to know how we were going to

(Testimony of L. W. Owen.)

negotiate, and I stated that I thought we should negotiate the way the contracts had been presented to the shippers, and he asked me which one was presented first, and I told him W. P. Wilson's. He said they were going to insist that we negotiate the Potato Association's contract first. I stated I thought it was only fair that we negotiate the way the contracts had been presented, not by picking out one particular plant. It also drifted back to our majority in these sheds. Mr. Weston stated there was some others that he didn't think we had a majority in, but he only named Hurley and he stated he would give us proof of the names of other sheds he wanted to know whether we had a majority in.

Trial Examiner Barton: What do you mean when you say "shed," now?

A. Well, these potato shippers, their places, to my knowledge, have been known as sheds throughout the country.

Trial Examiner Barton: Is that any different, to your knowledge, from the warehouses that have been mentioned here?

A. No, sir. [217]

Q. (By Mr. Babcock) Go ahead, Mr. Owen.

A. Up to the present time the only one that Mr. Weston asked us about was Hurley, although we found out we didn't have the majority in two or three others, and withdrew those.

Q. Well now, was there anything said at this meeting with respect to an industry-wide election?

A. Yes, sir.

(Testimony of L. W. Owen.)

Q. How did that come up, and what was said?

A. I don't know exactly how it occurred, but I asked Mr. Weston if the shippers would consider a unit election covering this area; he said he didn't think so, but that he would have a talk with them and let me know.

Q. I am not asking you that. I am asking you whether at this meeting on March 18th there was any discussion among you as to when negotiations were to start, or how they were to be conducted?

[218]

A. Yes. Mr. Weston stated that we should start with the Potato Co-op, and we had quite a discussion over that one. It was dropped. He stated also he thought we could get further by starting negotiations by mail, and I stated that it would be impossible to ever finish negotiations if we were going to have it by mail. He also stated that he had submitted a counter proposal to us.

Q. A what?

A. A counter proposal. I said I had received no counter proposal whatsoever.

Q. Was that in this case, or in the creamery case?      A. It was discussed at that time.

Q. Was that supposed to be a counter-proposal in the potato cases?      A. In the creamery case.

Q. Let's not go into that.

A. But it was discussed at the time. At all of our meetings it would eventually juggle back from potatoes to the creamery, and we were getting no

(Testimony of L. W. Owen.)

place whatever in any of [219] the meetings so far as negotiations were concerned.

Q. Mr. Owen, will you refer again to the letter of March sixteenth that you have there,—I think it is Board's Exhibit No. 24. A. Yes.

Q. The third from the last paragraph in the letter, and particularly to the statement there, "There are three or four others in this same category whose names I do not have. I will send them to you in a day or two,"—do you find that?

A. Yes, sir.

Q. Did Mr. Weston ever send you the names of these other operations? A. He did not.

Q. Or ever give them to you orally?

A. He did not. [220]

Q. Now, you refer to a letter dated March twenty-third,—is there an exhibit number on it,—from Mr. Weston to you?

A. March twenty-third,—31 is the exhibit number.

Q. 31? A. That is right.

Q. I refer you to the last paragraph of that letter in which it is stated, "I will see you Thursday or Friday." I will ask you to state whether Mr. Weston called you on Thursday or Friday of that week? A. No.

Q. Were you in Idaho Falls? A. I was.

Q. When? For what period?

A. I was here for three or four days at that time.

Q. Did you attempt to locate Mr. Weston?

(Testimony of L. W. Owen.)

A. I did.

Q. What did you do in that respect?

A. I called Mr. Trask; also called the Bonneville Hotel.

Q. Did you eventually receive any word from Mr. Weston?      A. I think I did on,—

Q. According to the calendar Thursday and Friday of that week were on the 26th and 27th.

A. I did not.

Q. Did you on Saturday receive a note from Mr. Weston?      A. Yes. [221]

Q. Do you have that note?

A. No; I haven't.

Q. Do you know where it is?

A. I think it is in your files.

Mr. Babcock: I have no record of it. Do you have a copy of that note, Mr. Weston?

Mr. Weston: No.

Q. Will you state what the note said, in substance?

Trial Examiner Barton: I want to be sure of this: Is this a note from you to Mr. Weston?

A. No, from Mr. Weston to Ray Hansen; it was not to me.

Q. Did you see it?

A. I saw the letter; yes.

Q. What day did you see it?

A. I think it was on a Saturday that I saw the letter,—Saturday or Sunday.

Q. What, in substance, did it say?



(Testimony of L. W. Owen.)

A. It stated that he had to leave, go back to Boise, and would call us, or write us from there.

Q. Now, refer to the letter dated March 31st from Mr. Weston, Mr. Owen, and give us the exhibit number on it.

A. 32 is the exhibit number.

Q. Refer to the last paragraph of that,—the next to the last paragraph of that letter,—the middle paragraph. I will ask you to state whether Mr. Weston notified you, or [222] got in touch with you on the following day, or thereabouts with reference to a meeting,—with reference to arranging a meeting?

A. He did not.

Q. Before we get to that, will you refer to Board's Exhibit No. 33, which purports to be a copy of a letter from Mr. Weston's secretary to Farrel Hansen,——

A. I remember this, although we did not have any meeting.

Q. Did you receive that copy? A. I did.

Q. Did you see Mr. Hansen about this time,—when did you see him?

A. I saw him the day I received the letter.

Q. Where did you see him?

A. I saw him the day I received the letter.

Q. Where did you see him?

Trial Examiner Barton: That letter you are referring to now is dated April 3rd, is it?

A. That is right.

Trial Examiner Barton: And you saw him the same day?

(Testimony of L. W. Owen.)

A. The day I received the letter.

Trial Examiner Barton: You received the letter a day [223] or two later?

A. I think it was the next day I received the letter.

Trial Examiner Barton: All right.

Q. (By Mr. Babcock) Was the letter sent from Mr. Weston's office in Boise?

A. I don't recall whether it was or not.

Q. Where did you see Mr. Weston?

A. I saw Mr. Weston in front of the Bonneville Hotel.

Q. Did you have an opportunity to talk to him?

A. No; I didn't.

Q. Did he call you, or get in touch with you, at that time? A. He did not.

Q. Did he, thereafter? A. He did not.

Q. Did you at that time file charges,—or about that time, against these respondents, as indicated in your letter, Mr. Owen? A. I did.

Q. At the same time did you also file charges against the other employers that have been named here, to whom contracts were sent, with the exception of Henry Hurley? A. I did.

Q. Was there a charge filed in the case of Mr. Hurley? A. There was. [224]

Q. Mr. Hurley, I said. A. Hurley? No.

Q. Were the other charges you filed, on the other employers not involved in this case, later withdrawn by the union? A. They were.

Q. What was the reason for that?

(Testimony of L. W. Owen.)

A. We did not have the majority.

Trial Examiner Barton: Just a minute. Do you remember as to how many employers you withdrew charges?

A. I don't recall right off-hand. I think it was about four, wasn't it.

Mr. Babcock: I can tell you in just a second, Mr. Examiner.

Trial Examiner Barton: I just wanted to know, approximately.

A. Four or five. [225]

Q. (By Mr. Babcock) In the case of the Atlantic Commission Company, was there a charge filed there? A. Yes.

Q. Was that withdrawn subsequently?

A. It was.

Q. And for what reason?

A. As we reached an oral agreement.

Q. When did you next meet with Mr. Weston?

A. Pertaining to the potato cases, you mean?

Q. Pertaining to any cases?

A. Around April the 18th at the,—

Q. Was that on the potato cases or something else? A. No, that was on the creamery case.

Q. Was the potato cases discussed?

A. At that meeting, no.

Q. When was the next time that you met with Mr. Weston to discuss the potato cases?

A. It was quite a while after that. I don't re-

(Testimony of L. W. Owen.)

call the date but it was quite some time after that that we met him again.

Q. How long ago was it?

A. It was around some time last month.

Q. October? A. October. [226]

Q. Between the time that you next met with him and the time that you had met with him last in April, or March, had you received any communications from him relative—either written or oral, other than the ones we have in evidence here?

A. No.

Q. Had he ever attempted to arrange a meeting to negotiate with you?

A. Not with me he hadn't.

Q. Or with any representative of the majority union? A. Not that I know of.

Q. Now, referring to these meetings in October, explain how they came about and how they were arranged?

A. What brought them about was when we was in negotiations with the creameries. After the settlement of that I asked Mr. Weston why we couldn't get together and sit down and settle the potato deal the same as we had the creamery, the same way. And he stated that he felt we probably could. And he arranged to have a meeting on the potatoes. We met up in Mr. Hansen's [227] room in the Rogers Hotel.

Q. You were talking about the settlement on the creamery deal; did that take place on that last

(Testimony of L. W. Owen.)

Board hearing on that complaint against the creameries?      A. That's right.

Q. And was it at that time that you first mentioned to Mr. Weston a possibility of further negotiations in these potato cases?

A. That's right.

Q. The hearing in that case, in the creamery cases, Mr. Owen, was concluded on September 26th?

A. Yes.

Q. Does that refresh your recollection as to the exact dates that you first met on the potato cases after that?

A. First meeting was held on a Monday. That is why I was just wondering what Monday it was there.

Q. And where was it held and with whom?

[228]

A. At the Rogers Hotel.

Q. And with whom?

A. There was Ray Hansen, Mr. Weston and myself at that meeting.

Mr. Weston: It was October 5th.

Trial Examiner Barton: You are agreed it was October the 5th?

The Witness: Well that is what I thought it was.

Trial Examiner Barton: All right then, go ahead.

Q. (Mr. Babcock): Go ahead and tell what took place at that meeting, or, first, how was the meet-

(Testimony of L. W. Owen.)

ing arranged, or who made the arrangement for the meeting?

A. If I am not mistaken the meeting was arranged between Mr. Weston and myself by phone; I don't recall exactly.

Q. Now, tell us what took place at the meeting, what was said at the meeting?

A. It was discussed about negotiating agreement for these [229] potato sheds and that a committee had been appointed to meet with us.

Q. Who said that? A. Mr. Weston.

Q. A committee of whom, from whom?

A. Of shippers.

Q. Did he give you the names?

A. At that time I don't think he did. I don't recall that he did but I don't think he gave us the name of the committee at all. And stated that he would,—they would be willing to meet with us and I told him that I had asked Brother Al May in from Salt Lake City to,—

Q. (Interposing): What is his position?

A. International Representative.

Q. For your International Union?

A. That's right. And a meeting was arranged for Wednesday, which was the 7th.

Q. Of October? A. October.

Q. Was the meeting held?

A. The meeting was held.

Q. Where was it held?

A. It was held at the Rogers Hotel in Mr. Hansen's room there.



(Testimony of L. W. Owen.)

Q. And who attended the meeting? [230]

A. There was Mr. Al May; Mr. Hansen and myself; Mr. Weston. I think both of the Mr. Holden's. Mr. Stanger; Mr. W. P. Wilson; and Mr. Carl DeLong.

Q. Was Al May at that meeting Mr. Owen?

A. No; no, Mr. May wasn't; I just was thinking, he was not at that meeting.

Q. How many meetings did he attend in the potato matters?           A. One.

Q. When was that, after this meeting or before?           A. It was after this meeting.

Q. All right. Now relate what was said at the meeting on the 7th and by whom it was said and the substance of what was said?

A. Principal topic of discussion was over this pirating of labor.

Q. Well Mr. Owen, if you will attempt to tell us in substance what was said in the sequence that it took place at the meeting and tell us how the meeting started and then what was said in sequence?

A. Well, the meeting started late, on account of Mr. Weston could not be there till about 4 o'clock and the meeting started about 4 o'clock or thereafter. It was called I think originally for around 2 o'clock. Although there was different talks, there was talk of this pirating of help, and it was stated that we could, what we could do to stop this pirating of [231] help. I stated how it was done on our defense jobs; then I just don't recall exactly who was

(Testimony of L. W. Owen.)

doing all the talking and all what was said, but that wasn't the whole thing, but I do remember the conversation, whether it was Mr. Stanger said it or Mr. Holden,—them two did most of the talking,—but that was discussed at the meeting and,—

Q. (Interposing): You mentioned the question of pirating, what was said about that, what was the problem?

A. The problem was that it was getting the wages up so high in some of these places it just wasn't known where it was going to stop. It was originally agreed,—or Mr. Holden said it was originally agreed they were to pay 70 to 75 cents an hour at the beginning of the season.

Q. Agreed among whom?

A. Agreed among the shippers.

Q. What else did he say?

A. But at the present time there was some of the houses was paying as high as 90 cents an hour and he stated he had met with Mr. Taylor the day before, and he told me that he had lost five of his men where other houses had offered his workers a nickel an hour more than his house was paying.

Q. What Mr. Taylor was that?

A. He was from the Atlantic Commission Company. It was agreed that they would hold a meeting amongst themselves and they would meet with us again. [232]

Q. Was there any discussion of the terms of an agreement, as to the actual terms of an agreement?

(Testimony of L. W. Owen.)

A. Not at that meeting, no. There was a discussion on what they thought the wages was that should be paid in this locality, but there was nothing pertaining to an agreement whatever.

Trial Examiner Barton: Was anything said at all about the proposed agreement you had sent out to the various shippers?

The Witness: Nothing at that meeting, only in regards to,—was a discussion that was had over paying the men from time to time, when they left the sheds to go to the cellars, on the time out and until they returned to the shed. There was a discussion over that and Mr. DeLong stated that he thought that they would be willing to pay one way. Or we allow 15 minutes to go to the sheds and return.

Trial Examiner Barton: Did you tell those present that you wanted an agreement?

The Witness: I said that all the time.

Trial Examiner Barton: You said that at this meeting?

The Witness: At practically every meeting I said that. At this particular meeting I said that we wanted an agreement and Mr. Weston asked me what we wanted in return if we would stop this pirating of help and I stated we were asking for nothing at the present time.

Q. (Mr. Babcock): Was there any discussion of the problem of [233] hiring and how the Union could assist in that? A. Yes.

Q. What was the discussion in that respect?

(Testimony of L. W. Owen.)

A. Well I forget now who it was said it, but one of them asked how we could help stop this pirating and I said how we had stopped it both at the airport and at the gun plant in Pocatello.

Q. Was there any discussion as to what form and what length of an agreement should be, what it should be, in case you negotiated one?

A. Yes. Mr. Weston stated "Why were we so anxious to have such a long agreement?" and I told him that is the, the agreement was plain enough and had it in there, two paragraphs would be enough, would be as much as we wanted, would have it in that much.

Q. At this meeting did Mr. Weston or any of the representatives of the employers raise any question about your majority in any of the operations?      A. None.

Q. Did you have a further meeting after this?

A. We did.

Q. When was it held? Approximately when?

A. It was only a few days after the,—it was the next week I think, on the 12th.

Q. Where did this take place?

A. That was also held at the Rogers Hotel.

[234]

Q. Who was present at this meeting?

A. Mr. Hansen,—Ray Hansen; Mr. Al May; Mr. Weston and myself.

Q. None of the employers, the shippers, were present at that time?      A. No, there wasn't.

Q. Relate the discussion that took place at that meeting?

(Testimony of L. W. Owen.)

A. We presented Mr. Weston with a contract. We told him it was something to start on and he said he thought we had said we were going to be satisfied with a two-paragraph contract, and I stated there was a lot of things in this contract that probably could be cut down, minimized; that the shorter the contract was that the better it was with us. He looked over the contract and stated that he thought that there should be no objections from any part, in that contract, although there was the matter of the closed shop that he was not in favor of. But that he would take the contract with him and draw up a counter-proposal and mail it to us, which he has not done.

Mr. Babcock: Will you mark this?

(Whereupon, document hereinabove referred to was marked as Board's Exhibit 39 for identification.)

Q. (Mr. Babcock): Handing you what has been marked Board's Exhibit 39 for identification I will ask you whether that is the proposed contract that you submitted at that time?

A. Yes. [235]

Mr. Babcock: I offer this in evidence. Do you have a copy, Mr. Weston?

Mr. Weston: No objection.

Trial Examiner Barton: Admitted.

(Whereupon, Board's Exhibit 39 was received in evidence.)

(Testimony of L. W. Owen.)

BOARD'S EXHIBIT No. 39

Wage Scale and Agreement

Agreed to and to be in effect between the.....  
of.....and the I. B. of T. C. W. & H. of  
A., Local ..... of .....and.....  
vicinity of....., hereinafter referred to as  
the Union.

Article I

Section A. That Whereas, the parties hereto desire to encourage and promote a cooperative and mutually satisfactory relationship between Employer and the members of the Union employed by such Employer with respect to conditions of employment and to prevent strikes and lockouts and to provide for the peaceable solution of all disputes which may arise between Employer and said employees.

Now Therefore, in consideration of the promises, covenants and agreements of the other, each of the parties hereto agrees as follows:

The management of the work, and direction of the working forces including the right to hire, suspend, or discharge for proper cause, and the right to relieve employees from duty is vested exclusively in the Employer, provided that this will not be used for purpose of discrimination against any member of the union.

It is provided further that the Employer shall have a full thirty days trial period for new help within which to decide whether his services will



(Testimony of L. W. Owen.)

be continued or whether he will be discharged, but that upon the expiration of thirty days if he is retained in the Employer's service, he must become a member of the Union. Employees must be members in good standing in the Union.

Section B. The employer hereby reserves the right to discharge any man or men, woman or women in his or its employ furnished by the Union to them, if the work is not satisfactory to the Employer. Any man or woman under dispute may appeal to the Manager or the Union, or both.

Section C. No employee member of the party of the second part, who, prior to the date of this Agreement was receiving more than the rate of wages designated in this schedule, or working under more favorable working conditions, than contained herein for the class of work in which he or she was engaged, shall suffer a reduction of wages or work under less favorable conditions through the operation or because of the signing of this Agreement.

Section D. All work performed on Sundays, New Year's Day, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day, or days observed as such, shall be paid at the rate of time and one-half of the regular hourly rate provided, however, that employee assigned regularly to Sunday or holiday work for the continuous operation of the company's business will be compensated at the regular rates.

In the event employee is assigned other days than

(Testimony of L. W. Owen.)

Sundays or holidays as his or her day off, and is then required to work on said assigned day off, he or she shall be compensated for all work performed on said day at the rate of his or her regular rate of pay, plus one-half ( $\frac{1}{2}$ ) his or her regular rate of pay, in addition to his or her regular hourly or monthly wage.

Section E. Employees covered by this Agreement, when drafted for Military Service, shall be reinstated upon their release from such service in accordance with the provisions of the Selective Training and Service Act.

Section F. Both Parties hereto further recognize and agree that industrial peace is to be desired at all times in the area covered by this Agreement, and to that end it is agreed.

1. That for the purpose of adjusting differences or controversies relative to the application or interpretation of any of the provisions of this Agreement, a board of arbitration is hereby created, to consist of two representatives of each party hereto.

In the event that agreement cannot be reached, a fifth party shall be selected who shall be a part of said board of arbitration. The findings and decisions of said board of arbitration shall be final upon both parties of this Agreement.

2. Any complaint or other matter for consideration of the board of arbitration shall first be investigated by the party hereto repre-

(Testimony of L. W. Owen.)

senting the person making the complaint, then filed in writing, with all supporting evidence, with the board of arbitration, and such board of arbitration shall be required to render a decision in not to exceed seven (7) days, not including Saturdays, Sundays or legal holidays.

3. The board of arbitration as hereunder set forth, shall not handle negotiations for a new agreement or changes in the wage scales, hours of work, or working conditions, which are a part of this Agreement.

Section G. All benefits and privileges now in effect concerning the employees shall continue and extend to all new employees.

Section H. Present employees of the Employer whose earning capacity is limited because of age or physical handicaps, may be employed where practicable, on light work at a wage suitable to the Employer and the Union.

## Article II

Section A. Regular employees shall mean men and women employed in potato warehouses who have assignments of work in the normal course of the operation of the various systems employed and who are not subject to daily dispatch through the office of the Union.

Section B. The hours worked under this agreement shall be consecutive from the time employees are ordered to report to duty and continue until

(Testimony of L. W. Owen.)

relieved from duty, and shall comply with all Federal and State laws.

Section C. Employees called to work shall receive not less than four hours' pay or four hours' work, time to start when ordered to report for work. Inclement weather or other conditions beyond the control of the Employer, the employees then shall only be compensated for the actual time worked. It is not intended that this provision shall apply when employees are required to work additional time in excess of the regular working day; such additional time in such case may be less than four (4) hours. All men and women shall be notified the night before, of any change in starting time.

Section D. The pay shall start for all country crews and shall continue from the time they depart from a designated point and until they return to a designated point at quitting time.

When employees travel in the service of the Company, they shall receive eight (\$.08) cents per mile on their car plus adequate insurance coverage.

Section E. When it becomes necessary to reduce the working force of the Company, seniority shall prevail with respect to all regular employees, qualifications being equal.

In rehiring, seniority shall prevail, and practice will be that the regular employee with the longest service record and qualifications being equal with said Company will first be rehired.

Further, no new employees will be hired until

(Testimony of L. W. Owen.)

all former available competent and regular employees employed at the time of the signing of this Agreement have been afforded an opportunity to return to work.

### Wage Scale

The wage scale shall be as follows:

- #1. Head Grader Man and Working Foreman .....90c per hr
- #2. All other male employees.....85c per hr
- #3. All female employees .....70c per hr

Section F. Female help may be employed subject to the Idaho law covering the employment of women, which provides no female shall be employed more than nine (9) hours in any day; and that the Employer shall provide suitable seats for them and shall permit the use of such seats by them when they are not engaged in the active duties for which they are employed.

### Article III

This Agreement is to continue and remain in full force and effect and to be binding upon the respective parties hereto from October 2, 1942, until October 2, 1943 except that either party may open Article II of this Agreement covering wages, hours and working conditions upon thirty (30) days written notice given the other party requesting modifications. In the event no notice given then this

(Testimony of L. W. Owen.)

Agreement shall remain in full force and effect for a period of an additional year.

TRUCK DRIVERS & WARE-  
HOUSEMEN LOCAL UNION  
NO. ....

By .....

By .....

Employer.

By .....

Dated this ..... day of ....., 1942.

Q. (Mr. Babcock): Now, what else was discussed at this meeting, Mr. Owen?

A. Mr. Weston wanted to know if,—how we were going to stop this pirating. I explained that,—and also Brother May explained to him,—that on all our defense jobs that each man was given a termination slip when he left a certain job and that had to be turned in when he applied for a new position in that area. On this termination slip it stated why they were,—either dismissed or why they quit and by that kind of method we thought we could stop these people from changing around on these different jobs. But the only way that it would be effective would be through a check-off system, where we would have the man coming to our offices before he was given employment in any of the sheds in this locality. Mr. Weston stated he thought that would be the solution to stop the pirating up here. The meeting adjourned with Mr. Weston stating that he would



(Testimony of L. W. Owen.)

submit a counter-proposal to us, which he has never sent.

Q. Was there any discussion at this meeting of the provisions and the different paragraphs of this agreement you had submitted?

A. There was. [236]

Q. Paragraph by paragraph?

A. Yes, there was.

Q. Other than the paragraph regarding the closed shop did Mr. Weston make any particular objection?

A. I think there was one other objection in the contract and we agreed to either cross it clear out or modify it.

Q. Do you know which one that was?

A. Not off-hand. I could tell by looking at the contract I think.

(Mr. Babcock hands witness document.)

A. (Continuing): It was also agreed to take out some in here that were not essential to the contract, especially one where it pertains to anyone leaving, being drafted, would receive their job back, which is a Government order anyhow for that matter and on the arbitration clause that was to be modified; I think that was all.

Q. What arrangements were made for further meeting, if any?

A. There was not meetings arranged. Only arrangement was made that Mr. Weston would draw up a counter-proposal and submit it to us.

Q. Well now when did you next have any contact with either Mr. Weston or the Committee of the shippers?

(Testimony of L. W. Owen.)

A. It was about a week ago, the next one that we had.

Q. And what was the nature of that one? How was that arranged?

A. I received a letter from Mr. Weston. [237]

Q. You are referring to the letter marked Board's Exhibit 35? A. That's right.

Q. Well before you saw that letter did you have any telephone conversation with Mr. Weston about any further meeting or any discussion with him about a further meeting?

A. Talked with him over the phone, but I don't know as it was pertaining to any other meetings of the potato case.

Q. Does it refresh your recollection that a meeting was tentatively arranged for on October 19th and later was postponed? A. That's right.

Q. Tell us about that then and how it happened, what happened?

A. A meeting was arranged for the 19th, which was on a Monday but was postponed.

Q. First, how was it arranged; between whom and how?

A. It was arranged between Mr. Hanson and Mr. Weston,—it was postponed for the reason that Mr. Holden and Mr. Farrel Hansen had to go to Washington regards to the price ceiling of potatoes.

Q. Well who told you that; how did you know that? A. Mr. Weston, he told,—

Q. To whom did he tell it to?

A. Mr. Hansen.

(Testimony of L. W. Owen.)

Q. Was that a personal conversation or a telephone conversation? [238]

A. To my knowledge it was a telephone conversation.

Q. Now following the receipt of the letter you have just referred to dated October 24th, did you have any further conversation with Mr. Weston, regarding, in regard to negotiating a contract?

A. No.

Q. This is Board's Exhibit 35. Did you or Mr. May,—was this with respect to the potato cases?

A. Not exactly pertaining to the potato deal, no.

Q. What did it pertain to?

A. It pertained to,—there was some discussion over the potato,—the meeting that we had with Mr. Weston was pertaining to the National Laundry in Pocatello, Idaho.

Q. When was that?

A. October the 26th, as I recall; that right, the 26th?

Mr. Weston: I agree that that is probably the date.

Q. What was said at that meeting with respect to the potato cases?

A. Mr. Weston stated that he thought we was getting along very good. That since these charges were filed they were going to go on through with the hearing and there was no use of having any further meetings as far as negotiations, although afterwards he stated that he thought that if it was

(Testimony of L. W. Owen.)

postponed,—this hearing,—that we could reach an agreement.

Q. Anything further? [239]

A. I told Mr. Weston that if we would get down to negotiations we probably could finish it before the hearing, which he stated all his time would be taken up preparing this case.

Q. Was that the extent of the conversation so far as it related to the potato cases?

A. That's right.

Q. Did you and Mr. May have a conversation with Mr. Weston on the 28th, the day I first arrived in town?

A. I thought it was on the 26th that that conversation was at; it might have been the 28th. It was the 28th, because as I recall *not* the Building Trades was to meet on that night; it was on the same night as the meeting.

Q. Was that the meeting you testified to just now?

A. That is correct.

Q. At that time and any subsequent time did Mr. Weston mention to you that he would call a committee of the shippers together and try to arrange for a meeting?

A. Not right at that time he did not.

Q. Did he at any subsequent time?

A. Not to my knowledge.

Q. Now, at any of these meetings that you testified to in October, did Mr. Weston or any of the shippers at that time state in substance or in effect state they did not believe you had a majority in your operations or ask for proof of that?

(Testimony of L. W. Owen.)

A. They did not mention it, outside of the letter mentioned [240] of Mr. Weston's, but never any discussion about that.

Trial Examiner Barton: Was there ever any discussion about the unit in any of the meetings?

The Witness: To my knowledge, no. [241]

Cross Examination

Q. I will ask your Mr. Owens, have you ever, through certification or otherwise informed us of your 51 per cent in any of these occasions?

A. Yes, on numerous occasions in our meetings I stated that we had over 51 per cent in most of the,——

Q. (Interrupting) Well that is not an answer to my question. I am asking if you have ever shown us the applications, or otherwise by certification that you have established that fact?

A. I stated that when we went into negotiations with any particular shed or sheds that we would produce applications as proof of our 51 per cent.

Q. Do you take the position then we should negotiate first before you show that you have the 51 per cent?

A. No, I take the position that we should at least decide we are going to negotiate before we present the evidence.

Q. But you have never given us that information to date, have you?

A. Because we have never sit down to negotiate on any [244] particular shed.

Q. Well I don't want an argumentative answer, I want an answer either yes or no to my question.

(Testimony of L. W. Owen.)

Have you ever given us that information to date?

Trial Examiner Barton: Well whatever the reason is, you have never presented the application cards?

The Witness: That is right. [245]

Q. I just wanted to clear the record was all. Now, let's come down to October. I believe if we can get these dates straight we can agree on them and I believe the meeting with the committee was on October 5, which was a Monday; does that correspond with your recollection?

A. No, my understanding was we met with you first on a Monday.

Q. Well,—

A. (Interposing and continuing): And you stated that you just came from a committee,—from a shippers' meeting and that they appointed a committee to meet with us. Now that is the way I understood.

Q. Now regardless of the date we will have to fix it some other way. At the meeting the committee was present they consisted of C. R. Holden, Bert Stanger, Mr. Wilson and you were present and Ray Hansen and Carl DeLong and myself?

A. That's right.

Q. Mr. May was not at that meeting?

A. That's right.

Q. The discussion at that meeting centered around the discussion of the pirating of labor; the question of unjustified or unusual increases in wages or wage wars between these shippers and we also had copies of the contract at that meeting



(Testimony of L. W. Owen.)

[249] to discuss; there were contracts that were brought out of different files; didn't you bring out one and didn't Mr. Hansen bring out one?

A. No, he didn't; he didn't have any contracts with him, or with me at all at that time.

Q. Isn't it your recollection some contracts were brought out for discussion?

A. There was some, yes.

Q. In fact, at that meeting didn't someone suggest let's take a look at this contract and see what is in it?

A. Yes, but that was,——

Q. (Interposing) Didn't they go into the question of these employees going to work in the mornings and not going to pay,——

A. (Interposing) Yes.

Q. And taking them to the sheds, when they went to work; who should pay for this?

A. Yes.

Q. I believe we also discussed arbitration clause?

A. That's right.

Q. I don't believe we got on the closed shop at all as it was a night meeting and,——

A. (Interposing) Yes, for the record, it was held at 8:30.

Q. And at that meeting on the question of the length of the contract you said via the proper gesture that all I want is a short two-paragraph contract? [250]

A. No, I stated that as far as we were concerned that these lengthy contracts originated from your lawyers.

Q. I recall that very distinctly.

(Testimony of L. W. Owen.)

A. Not from the labor organizations and if the proper verbiage was put in it we would just as soon have two paragraphs.

Q. That's right. In other words we were discussing the advisability of a very short contract?

A. That's right.

Q. I believe you made some suggestion to the effect that it be just a little working agreement between the parties, was all you wanted; just to set out the wages and hours?

A. The wages and hours and the working conditions and I guess I will have to use your term, "closed shop."

Q. Are you sure the words "closed shop" were used there that night? Used at all?

A. I am not sure about that at all.

Q. So that you are not sure about that last statement?

A. No.

Q. Now, at that meeting,—strike that please. How long would you say that meeting took; didn't it go till along around 11:30, somewheres around there?

A. No, I know it was not that long; we was at Pocatello at five minutes to 12:00 and Mr. Hansen left to go to Ogden then so, there is a 35-mile speed limit now you know, he would have to go slower than that. [251]

Q. Probably around 10:30 we got through then?

A. I think around 10:00 o'clock.

Q. At that meeting we had a very free discussion on these things?

A. That's right.

Q. And you asked Mr. Hansen at that meeting

(Testimony of L. W. Owen.)

to go ahead and call the employees together for a Wednesday night meeting?           A. Yes.

Q. And you said you would take up the matter to stop this pirating?           A. Yes.

Q. And you said you would discuss with those employees that night a stabilizing of the wage, at 75 cents or 80 cents yourself?           A. That's right.

Q. And Mr. Hansen at that meeting told you, discussed how to get the meeting ready?

A. That's right.

Q. Now, isn't it also a fact that at that meeting we agreed to take care,—to take the matter up with the other Respondents of this case?           A. Yes.

Q. And discuss it, the meeting, with them and you would then report to them the progress you had made with the employees?

A. That's right. [252]

Q. And you would give to them the usual argument that,—           A. (Interposing) Yes.

Q. And the next time I met with you Mr. May was at the meetings?           A. Yes.

Q. And do you recall at the next meeting I mentioned this short contract?           A. Yes.

Q. And Mr. May gave me, at this second meeting, this contract, or a copy of this contract which has been introduced here as Exhibit 39?

A. That's right.

Q. And that has three pages of it?

A. That is right.

Q. And has the closed shop in it?

A. That's right.

Q. And a long arbitration clause in it?

(Testimony of L. W. Owen.)

A. That's right.

Q. Isn't it true you also suggested at that meeting they should have the check-off?

A. Yes, I think that was brought about.

Q. As a matter of fact, we brought into,—it was agreed, did we not, we did not see where the check-off would be necessary to assist in the stopping of this pirating? A. That's right. [253]

Q. So the check-off was just an incident at this meeting. Now, at this second meeting didn't I agree that we would have to come over as a committee because of the progress we were making and appear before the other respondents and discuss the matter with them; to refresh your memory, do you remember some such expression that you could tell your story and those that wanted to work with you could go with you and those that didn't want to work with you didn't have to go with you?

A. I think that you mentioned that you would take it up with the shippers and would let me know if I should come over and tell the story to the shippers, but there was no definite appointment made.

Q. Well now, not to be argumentative, but to refresh your memory, didn't I tell you and Mr. Hansen and Mr. May that had come up the Monday before so I could discuss this with you further and go to the meeting then?

A. That's right.

Q. And Mr. May was quite anxious to go to the meeting? A. Yes.

Q. And I think I called on the phone or wired

(Testimony of L. W. Owen.)

Mr. Hansen, I forget which now; these men were out of town; that it would be practically useless to have the meeting?       A. That's right.

Q. So that practically winds up the negotiations and discussions we had on the contract. [254]

Trial Examiner Barton: Well then did you or Mr. May appear at one of these Monday meetings?

The Witness: No, the meeting was cancelled or, it was on account of Mr. Holden and Mr. Farrel Hansen, they had to go to Washington at that time.

Trial Examiner Barton: So that is the one you mentioned that had to be cancelled?

The Witness: Yes, that's right. [255]

#### Redirect Examination

Q. (Mr. Babcock) Mr. Owens, was the meeting in the early part of October that you had with Mr. Weston and the committee from the shippers the first time that you had had the opportunity to discuss the matter of a contract with the employers themselves as a committee?

A. As a committee, yes. [259]

Q. (Mr. Babcock) Prior to that time had Mr. Weston ever offered to meet with you and the employers themselves and negotiate a contract, actually discuss the terms of the contract?

A. At no time that I remember.

Q. You stated I believe that you did feel that there was some progress made at this meeting or that is was a satisfactory meeting in October, of the shippers?

A. Yes, I do think that it was some progress that was made at that meeting.

(Testimony of L. W. Owen.)

Q. During the discussion were any counter-proposals submitted by Mr. Weston or any of the employers on any of the original proposals of this agreement or contract?

A. There was no counter-proposals offered at no time.

Q. Now with reference to the subsequent meeting that was cancelled; was that to be a meeting with just a committee or with the employers, or the employers involved in this case?

A. My understanding was it was supposed to be a meeting with all the shippers.

Trial Examiner Barton: That was the Monday meeting that [260] was cancelled you are speaking of?

The Witness: That's right.

Q. That was to be a meeting of the Traffic Association, one of the Monday meetings?

A. That was my understanding, yes.

Q. And it was not to be confined to the employers represented in this case? A. No.

Q. Was that cancelled at your request or Mr. Weston's request?

A. Mr. Weston's request.

Q. And do you recall what individuals he told you were unable to be present at that meeting?

A. Mr. Holden and Mr. Farrel Hansen, he told me, was going to Washington on business.

Q. Were they the only ones?

A. That's all I was told. [261]